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Vermont. Laws, statutes, etc

LAWS

of the

STATE OF VERMONT;

Revised and passed

BY THE LEGISLATURE,

in the year of our Lord,

ONE THOUSAND SEVEN HUNDRED AND NINETY SEVEN.

Together with

THE DECLARATION OF INDEPENDENCE, THE CONSTITUTION OF THE UNITED STATES, WITH ITS AMENDMENTS, AND THE CONSTITUTION OF THE STATE OF VERMONT:

With an Appendix:

CONTAINING

The several LAWS, which have heretofore been passed by the LEGISLATURE, regulating PROPRIETORS' MEETINGS, granting General LAND TAXES, exclusive privileges to Companies for LOCKS, TOLL BRIDGES, TURNPIKE ROADS, &c.

AND THE

TITLES OF ALL THE ACTS

which have not been repealed, or become obsolete.

Published by Authority.

STATE OF VERMONT.

Printed at RUTLAND, by JOSIAH FAY.

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DECLARATION OF INDEPENDENCE.

In CONGRESS, *July* 4, 1776.

The UNANIMOUS DECLARATION *of the* THIRTEEN UNITED STATES *of* AMERICA.

WHEN, in the courſe of human events, it becomes neceſſary for one people to diſſolve the political bands which have connected them with another, and to aſſume, among the powers of the Earth, the ſeparate and equal ſtation to which the laws of nature and of nature's God entitle them, a decent reſpect to the opinions of mankind requires that they ſhould declare the cauſes which impel them to the ſeparation.

We hold theſe truths to be ſelf-evident; that all men are created equal; that they are endowed by their Creator, with certain unalienable rights; that among theſe are life, liberty, and the purſuit of happineſs.—That to ſecure theſe rights, governments are inſtituted among men, deriving their juſt powers from the conſent of the governed: that whenever any form of government becomes deſtructive of theſe ends, it is the right of the people to alter or to aboliſh it, and to inſtitute new government, laying its foundation on ſuch principles, and organizing its powers in ſuch form, as to them ſhall ſeem moſt likely to effect their ſafety and happineſs. Prudence, indeed, will dictate, that governments long eſtabliſhed, ſhould not be changed for light and tranſient cauſes; and accordingly, all experience hath ſhown, that mankind are more diſpoſed to ſuffer, while evils are ſufferable, than to right themſelves by aboliſhing the forms to which they are accuſtomed.

But when a long train of abuſes and uſurpations, purſuing invariably the ſame object, evinces a deſign to reduce them under abſolute deſpotiſm, it is their right, it is their duty, to throw off ſuch government, and to provide new guards for their future ſecurity. Such has been the patient ſufferance of theſe colonies; and ſuch is now the neceſſity which conſtrains them to alter their former ſyſtems of government. The hiſtory of the preſent king of Great-Britain is a hiſtory of repeated injuries and uſurpations, all having in direct object the eſtabliſhment of an abſolute tyranny over theſe ſtates. To prove this, let facts be ſubmitted to a candid world.

He has refuſed his aſſent to laws the moſt wholeſome and neceſſary for the public good.

He has forbidden his governors to paſs laws of immediate and preſſing importance, unleſs ſuſpended in their operation till his aſſent ſhould be obtained; and when ſo ſuſpended, he has utterly neglected to attend to them.

He has refuſed to paſs other laws for the accommodation of large diſtricts of people, unleſs thoſe people would relinquiſh the right of repreſentation in the legiſlature; a right ineſtimable to them, and formidable to tyrants only. He has called together legiſlative bodies at places unuſual, uncomfortable, and diſtant from the depoſitory of their public records, for the ſole purpoſe of fatiguing them into compliance with his meaſures.

He has diſſolved repreſentative houſes repeatedly, for oppoſing, with manly firmneſs, his invaſions on the rights of the people.

He has refuſed for a long time after ſuch diſſolutions, to cauſe others to be elected; whereby the legiſlative powers, incapable of annihilation, have returned to the people at large for their exerciſe; the ſtate remaining in the mean time, expoſed to all the dangers of invaſion from without, and convulſions within.

He has endeavored to prevent the population of theſe ſtates; for that purpoſe, obſtructing the laws for naturalization of foreigners; refuſing to paſs others

to encourage their migrations hither, and raiſing the conditions of new appropriations of lands.

He has obſtructed the adminiſtration of juſtice, by refuſing his aſſent to laws for eſtabliſhing judiciary powers.

He has made judges dependant on his will alone, for the tenure of their offices, and the amount and payment of their ſalaries.

He has erected a multitude of new offices, and ſent hither ſwarms of officers, to harraſs our people, and eat out their ſubſtance.

He has kept among us, in times of peace, ſtanding armies, without the conſent of our legiſlatures.

He has affected to render the military independent of, and ſuperior to the civil power.

He has combined with others to ſubject us to a juriſdiction foreign to our conſtitution, and unacknowledged by our laws; giving his aſſent to their acts of pretended legiſlation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from puniſhment for any murders which they ſhould commit on the inhabitants of theſe ſtates:

For cutting off our trade with all parts of the world:

For impoſing taxes on us without our conſent:

For depriving us, in many caſes, of the benefits of trial by jury:

For tranſporting us beyond ſeas to be tried for pretended offences:

For aboliſhing the free ſyſtem of Engliſh laws in a neighboring province, eſtabliſhing therein an arbitrary government, and enlarging its boundaries, ſo as to render it at once an example and fit inſtrument for introducing the ſame abſolute rule into theſe colonies:

For taking away our charters, aboliſhing our moſt valuable laws, and altering fundamentally the forms of our governments:

For ſuſpending our own legiſlatures, and declaring themſelves inveſted with power to legiſlate for us in all caſes whatſoever.

He has abdicated government here, by declaring us out of his protection, and waging war againſt us.

He has plundered our ſeas, ravaged our coaſts, burnt our towns, and deſtroyed the lives of our people.

He is, at this time, tranſporting large armies of foreign mercenaries, to complete the works of death, deſolation and tyranny, already begun with circumſtances of cruelty and perfidy, ſcarcely paralleled in the moſt barbarous ages, and totally unworthy the head of a civilized nation.

He has conſtrained our fellow-citizens, taken captive on the high ſeas, to bear arms againſt their country, to become the executioners of their friends and brethren, or to fall themſelves by their hands.

He has excited domeſtic inſurrections amongſt us, and has endeavored to bring on the inhabitants of our frontiers the mercileſs Indian ſavages, whoſe known rule of warfare is an undiſtinguiſhed deſtruction, of all ages, ſexes and conditions.

In every ſtage of theſe oppreſſions, we have petitioned for redreſs in the moſt humble terms: Our repeated petitions have been anſwered only by repeated injury. A prince, whoſe character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our Britiſh brethren. We have warned them, from time to time, of attempts by their legiſlature to extend an unwarrantable juriſdiction over us. We have reminded them of the circumſtances of our emigration and ſettlement here. We have appealed to their native juſtice and magnanimity, and we have conjured them by the ties of our common kindred to diſavow theſe uſurpations, which would inevitably interrupt our connexions and correſpondence. They too have been deaf to the voice of juſtice and of conſanguinity. We muſt, therefore, acquieſce in the neceſſity which denounces our ſeparation, and hold them, as we hold the reſt of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the UNITED STATES of AMERICA, in GENERAL CONGRESS assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, FREE and INDEPENDENT STATES; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great-Britain, is, and ought to be, totally dissolved; and that as FREE and INDEPENDENT STATES, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which INDEPENDENT STATES may of right do. And for the support of this declaration, with a firm reliance on the protection of DIVINE PROVIDENCE, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK.

Newhampshire.	Josiah Bartlett, William Whipple, Matthew Thornton.
Massachusetts-Bay.	Samuel Adams, John Adams, Robert Treat Paine, Elbridge Gerry.
Rhode-Island, &c.	Stephen Hopkins, William Ellery.
Connecticut.	Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott.
New-York.	William Floyd, Philip Livingston, Francis Lewis, Lewis Morris.

New-Jersey.	Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark.
Pennsylvania.	Robert Morris, Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross.
Delaware.	Cæsar Rodney, George Read, Thomas M'Kean.
Maryland.	Samuel Chase, William Paca, Thomas Stone, Charles Carroll, of Carrollton.
Virginia.	George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson, jun. Francis Lightfoot Lee, Carter Braxton.
North-Carolina.	William Hooper, Joseph Hewes, John Penn.
South-Carolina.	Edward Rutledge, Thomas Heyward, jun. Thomas Lynch, jun. Arthur Middleton.
Georgia.	Button Gwinnett. Lyman Hall, George Walton.

Constitution of the United States.

The CONSTITUTION framed for the United States of America, by a Convention of Deputies from the ſtates of New-Hampſhire, Maſſachuſetts, Connecticut, New-York, New-Jerſey, Pennſylvania, Delaware, Maryland, Virginia, North-Carolina, South Carolina, and Georgia, at a ſeſſion begun May 25, and ended ſeptember 17, 1787.

WE, the people of the United States, in order to form a more perfect union, eſtabliſh juſtice, inſure domeſtic tranquillity, provide for the common defence, promote the general welfare, and ſecure the bleſſings of liberty to ourſelves and our poſterity, do ordain and eſtabliſh this Conſtitution for the United States of America.

ARTICLE I.

Sect. 1. ALL Legiſlative powers herein granted, ſhall be veſted in a Congreſs of the United States, which ſhall conſiſt of a Senate and Houſe of Repreſentatives.

Sect. 2. The Houſe of Repreſentatives ſhall conſiſt of members choſen every ſecond year, by the people of the ſeveral ſtates: and the electors, in each ſtate, ſhall have the qualifications requiſite for electors of the moſt numerous branch of the ſtate Legiſlature.

No perſon ſhall be a Repreſentative, who ſhall not have attained to the age of twenty-five years, and been ſeven years a citizen of the United States; and who ſhall not, when elected, be an inhabitant of that ſtate in which he ſhall be choſen.

Repreſentatives, and direct taxes ſhall be apportioned among the ſeveral ſtates, which may be included within

this Union, according to their reſpective numbers, which ſhall be determined by adding to the whole number of free perſons, including thoſe bound to ſervice for a term of years, and excluding Indians not taxed, three fifths of all other perſons. The actual enumeration ſhall be made within three years after the firſt meeting of the Congreſs of the United States; and within every ſubſequent term of ten years, in ſuch manner as they ſhall by law direct. The number of Repreſentatives ſhall not exceed one for every thirty thouſand; but each ſtate ſhall have at leaſt one Repreſentative; and until ſuch enumeration ſhall be made, the ſtate of New-Hampſhire ſhall be entitled to chuſe three; Maſſachuſetts, eight; Rhode-Iſland and Providence Plantations, one; Connecticut, five; New-York, ſix; New-Jerſey, four; Pennſylvania, eight; Delaware, one; Maryland, ſix; Virginia, ten: North-Carolina, five; South-Carolina, five; and Georgia, three.

When vacancies happen in the repreſentation from any ſtate, the executive authority thereof ſhall iſſue writs of election to fill ſuch vacancies.

The Houſe of Repreſentatives ſhall chuſe their Speaker and other officers; and ſhall have the ſole power of impeachment.

Sect. 3. The Senate of the United States ſhall be compoſed of two Senators from each ſtate, choſen by the Legiſlature thereof, for ſix years: and each Senator ſhall have one vote.

Immediately after they ſhall be aſſembled, in conſequence of the firſt election, they ſhall be divided, as equally as may be, into three claſſes. The ſeats of the Senators of the firſt claſs ſhall be vacated at the expiration of the ſecond year; of the ſecond claſs, at the expiration of the fourth year; and of the third claſs, at the expiration of the ſixth year; ſo that one third may be choſen every ſecond year. And if vacancies happen, by reſignation or otherwiſe, during the receſs of the Legiſlature of any ſtate, the executive thereof may make temporary appointments until the next meeting of the Legiſlature, which ſhall then fill ſuch vacancies.

No perſon ſhall be a Senator, who ſhall not have attained to the age of thirty years, and been nine years a citizen of the United States; and who ſhall not, when elected, be an inhabitant of that ſtate for which he ſhall be choſen.

The Vice Preſident of the United States ſhall be Preſident of the Senate, but ſhall have no vote, unleſs they be equally divided.

The Senate ſhall chuſe their other officers, and alſo a Preſident pro-tempore, in the abſence of the Vice Preſident, or when he ſhall exerciſe the office of Preſident of the United States.

The Senate ſhall have the ſole power to try all impeachments. When ſitting for that purpoſe, they ſhall be on oath or affirmation. When the Preſident of the United States is tried, the Chief Juſtice ſhall preſide: and no perſon ſhall be convicted, without the concurrence of two thirds of the members preſent.

Judgment, in caſes of impeachment, ſhall not extend further than to removal from office, and diſqualification to hold and enjoy any office of honor, truſt, or profit, under the United States. But the party convicted ſhall, nevertheleſs, be liable and ſubject to indictment, trial, judgment and puniſhment, according to law.

Sect. 4. The times, places and manner of holding elections for Senators and Repreſentatives, ſhall be preſcribed in each ſtate by the legiſlature thereof: But the Congreſs may at any time by law make or alter ſuch regulations, except as to the places of chuſing Senators.

The Congreſs ſhall aſſemble at leaſt once in every year, and ſuch meeting ſhall be on the firſt Monday in December, unleſs they ſhall by law appoint a different day.

Sect. 5. Each Houſe ſhall be the judge of the elections, returns and qualifications of its own members, and a majority of each ſhall conſtitute a quorum to do buſineſs; but a ſmaller number may adjourn from day to day, and may be authorized to compel the attend-

ance of abſent members, in ſuch manner, and under ſuch penalties as each Houſe may provide.

Each Houſe may determine the rules of its proceedings, puniſh its members for diſorderly behaviour, and, with the concurrence of two thirds, expel a member.

Each Houſe ſhall keep a journal of its proceedings, and from time to time publiſh the ſame, excepting ſuch parts as may in their judgment require ſecrecy; and the yeas and nays of the members of either Houſe on any queſtion, ſhall, at the deſire of one fifth of thoſe preſent, be entered on the journal.

Neither Houſe, during the ſeſſion of Congreſs, ſhall without the conſent of the other, adjourn for more than three days, nor to any other place than that in which the two houſes ſhall be ſitting.

Sect. 6. The Senators and Repreſentatives ſhall receive a compenſation for their ſervices, to be aſcertained by law, and paid out of the treaſury of the United States. They ſhall in all cales, except treaſon, felony and breach of the peace, be privileged from arreſt during their attendance at the ſeſſion of their reſpective Houſes, and in going to and returning from the ſame; and for any ſpeech or debate in either Houſe, they ſhall not be queſtioned in any other place.

No Senator or Repreſentative ſhall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which ſhall have been created or the emoluments whereof ſhall have been increaſed during ſuch time; and no perſon holding any office under the United States, ſhall be a member of either Houſe during his continuance in office.

Sect. 7. All bills for raiſing revenue ſhall originate in the Houſe of Repreſentatives; but the Senate may propoſe or concur with amendments as on other bills.

Every bill which ſhall have paſſed the Houſe of Repreſentatives and the Senate, ſhall, before it become a law, be preſented to the Preſident of the United States: If he approve he ſhall ſign it, but if not he ſhall return it, with his objections, to that Houſe in which it ſhall

have originated, who ſhall enter the objections at large on their journal, and proceed to reconſider it. If after ſuch reconſideration, two thirds of that Houſe ſhall agree to paſs the bill, it ſhall be ſent, together with the objections, to the other Houſe, by which it ſhall likewiſe be reconſidered, and if approved by two thirds of that Houſe, it ſhall become a law. But in all ſuch caſes, the votes of both Houſes ſhall be determined by yeas and nays; and the names of the perſons voting for and againſt the bill, ſhall be entered on the journal of each houſe reſpectively. If any bill ſhall not be returned by the Preſident within ten days (Sundays excepted) after it ſhall have been preſented to him, the ſame ſhall be a law, in like manner as if he had ſigned it, unleſs the Congreſs by their adjournment prevent its return, in which caſe it ſhall not be a law.

Every order, reſolution or vote to which the concurrence of the Senate and Houſe of Repreſentatives may be neceſſary (except on a queſtion of adjournment) ſhall be preſented to the Preſident of the United States; and before the ſame ſhall take effect, ſhall be approved by him, or being diſapproved by him, ſhall be repaſſed by two thirds of the Senate and Houſe of Repreſentatives, according to the rules and limitations preſcribed in the caſe of a bill.

Sect. 8. The Congreſs ſhall have power—

To lay and collect taxes, duties, impoſts, and exciſes, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, impoſts, and exciſes, ſhall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the ſeveral ſtates, and with the Indian tribes;

To eſtabliſh an uniform rule of naturalization, and uniform laws on the ſubject of bankruptcies, throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the ſtandard of weights and meaſures;

To provide for the punishment of counterfeiting the securities and current coin of the United States ;

To establish post offices and post roads ;

To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries ;

To constitute tribunals inferior to the Supreme Court ;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations ;

To declare war ; grant letters of marque and reprisal ; and make rules concerning captures on land and water ;

To raise and support armies. But no appropriation of money to that use, shall be for a longer term than two years ;

To provide and maintain a navy ;

To make rules for the government and regulation of the land and naval forces ;

To provide for calling forth the militia, to execute the laws of the Union, suppress insurrections, and repel invasions ;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States ; reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress ;

To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the Government of the United States ; and to exercise like authority over all places purchased by the consent of the Legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings : And

To make all laws, which ſhall be neceſſary and proper for carrying into execution the foregoing powers, and all other powers veſted by this Conſtitution in the Government of the United States, or in any department or officer thereof.

Sect. 9. The migration or importation of ſuch perſons, as any of the ſtates now exiſting, ſhall think proper to admit, ſhall not be prohibited by the Congreſs, prior to the year one thouſand eight hundred and eight: but a tax or duty may be impoſed on ſuch importation, not exceeding ten dollars for each perſon.

The privilege of the writ of *habeas corpus* ſhall not be ſuſpended, unleſs, when in caſes of rebellion or invaſion, the public ſafety may require it.

No bill of attainder, or *ex poſt facto* law, ſhall be paſſed.

No capitation or other direct tax ſhall be laid, unleſs in proportion to the cenſus or enumeration herein before directed to be taken.

No tax or duty ſhall be laid on articles exported from any ſtate. No preference ſhall be given, by any regulation of commerce or revenue, to the ports of one ſtate over thoſe of another: nor ſhall veſſels, bound to, or from, one ſtate be obliged to enter, clear, or pay duties in another.

No money ſhall be drawn from the Treaſury, but in conſequence of appropriations made by law; and a regular ſtatement and account of the receipts and expenditures of all public money ſhall be publiſhed from time to time.

No title of nobility ſhall be granted by the United States: and no perſon, holding any office of profit or truſt under them, ſhall, without the conſent of Congreſs, accept of any preſent, emolument, office, or title, of any kind whatever, from any King, Prince, or foreign ſtate.

Sect. 10. No ſtate ſhall enter into any Treaty, Alliance or Confederation; grant letters of marque and repriſal; coin money; emit bills of credit; make any thing but gold and ſilver coin a tender in payment

of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and controul of the Congress. No state shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war, in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

Sect. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the state may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House

of Repreſentatives, open all the certificates, and the votes ſhall then be counted. The perſon having the greateſt number of votes ſhall be the Preſident, if ſuch number be a majority of the whole number of electors appointed; and if there be more than one who have ſuch majority, and have an equal number of votes, then the Houſe of Repreſentatives ſhall immediately chuſe by ballot one of them for Preſident; and if no perſon have a majority, then from the five higheſt on the liſt the ſaid Houſe ſhall in like manner chuſe the Preſident. But in chuſing the Preſident, the votes ſhall be taken by ſtates, the repreſentation from each ſtate having one vote; a quorum for this purpoſe ſhall conſiſt of a member or members from two thirds of the ſtates, and a majority of all the ſtates ſhall be neceſſary to a choice. In every caſe, after the choice of the Preſident, the perſon having the greateſt number of votes of the electors ſhall be the Vice-Preſident. But if there ſhould remain two or more, who have equal votes, the Senate ſhall chuſe from them by ballot the Vice-Preſident.

The Congreſs may determine the time of chuſing the electors, and the day on which they ſhall give their votes; which day ſhall be the ſame throughout the United States.

No perſon except a natural born citizen, or a citizen of the United States at the time of the adoption of this Conſtitution, ſhall be eligible to the office of Preſident; neither ſhall any perſon be eligible to that office, who ſhall not have attained to the age of thirty five years, and been fourteen years a reſident within the United States.

In caſe of the removal of the Preſident from office, or of his death, reſignation, or inability to diſcharge the powers and duties of ſaid office, the ſame ſhall devolve on the Vice-Preſident; and the Congreſs may by law provide for the caſe of removal, death, reſignation or inability, both of the Preſident and Vice-Preſident, declaring what officer ſhall then act as Preſident; and ſuch officer ſhall act accordingly, until the diſability be removed, or a Preſident ſhall be elected.

The Preſident ſhall, at ſtated times, receive for his ſervices, a compenſation, which ſhall neither be increaſed nor diminiſhed during the period for which he ſhall have been elected; and he ſhall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he ſhall take the following oath or affirmation:

"I do ſolemnly ſwear (or affirm) that I will faithfully execute the office of Preſident of the United States; and will, to the beſt of my ability, preſerve, protect and defend the Conſtitution of the United States."

Sect. 2. The Preſident ſhall be commander in chief of the army and navy of the United States, and of the militia of the ſeveral ſtates, when called into the actual ſervice of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any ſubject relating to the duties of their reſpective offices, and he ſhall have power to grant reprieves and pardons for offences againſt the United States, except in caſes of impeachment.

He ſhall have power, by and with the advice and conſent of the Senate, to make treaties, provided two thirds of the Senators preſent concur; and he ſhall nominate, and by and with the advice and conſent of the Senate, ſhall appoint ambaſſadors, other public miniſters and conſuls, judges of the ſupreme court, and all other officers of the United States, whoſe appointments are not herein otherwiſe provided for, and which ſhall be eſtabliſhed by law: But the Congreſs may by law veſt the appointment of ſuch inferior officers, as they think proper, in the Preſident alone, in the courts of law, or in the heads of departments.

The Preſident ſhall have power to fill up all vacancies that may happen during the receſs of the Senate, by granting commiſſions which ſhall expire at the end of their next ſeſſion.

Sect. 3. He ſhall from time to time give to the Congreſs information of the ſtate of the Union, and recommend to their conſideration ſuch meaſures as he ſhall judge neceſſary and expedient: He may on extraordinary occaſions, convene both Houſes, or either of them —and in caſe of diſagreement between them, with reſpect to the time of adjournment, he may adjourn them to ſuch time as he ſhall think proper: He ſhall receive ambaſſadors and other public miniſters: He ſhall take care that the laws be faithfully executed, and ſhall commiſſion all the officers of the United States.

Sect. 4. The Preſident, Vice-Preſident, and all civil officers of the United States, ſhall be removed from office on impeachment for, and conviction of, treaſon, bribery, or other high crimes and miſdemeanors.

ARTICLE III.

Sect. 1. The judicial power of the United States, ſhall be veſted in one ſupreme court, and in ſuch inferior courts as the Congreſs may from time to time ordain and eſtabliſh. The judges, both of the ſupreme and inferior courts, ſhall hold their offices during good behaviour; and ſhall, at ſtated times, receive for their ſervices, a compenſation, which ſhall not be diminiſhed during their continuance in office.

Sect. 2. The judicial power ſhall extend to all caſes in law and equity, ariſing under this Conſtitution, the laws of the United States, and treaties made, or which ſhall be made, under their authority; to all caſes affecting ambaſſadors, other public miniſters, and conſuls; to all caſes of admiralty and maritime juriſdiction; to controverſies to which the United States ſhall be party —to controverſies between two or more ſtates; between a ſtate and citizens of another ſtate; between citizens of different ſtates; between citizens of the ſame ſtate claiming lands under grants of different ſtates; and between a ſtate, and the citizens thereof, and foreign ſtates, citizens or ſubjects.

In all cafes affecting ambaſſadors, other public miniſters and conſuls, and thoſe in which a ſtate ſhall be party, the ſupreme court ſhall have original juriſdiction. In all the other caſes before mentioned, the ſupreme court ſhall have appellate juriſdiction, both as to law and fact, with ſuch exceptions, and under ſuch regulations as the Congreſs ſhall make.

The trial of all crimes, except in caſes of impeachment, ſhall be by jury; and ſuch trial ſhall be held in the ſtate where the ſaid crimes ſhall have been committed; but when not committed within any ſtate, the trial ſhall be at ſuch place or places as the Congreſs may by law have directed.

Sect. 3. Treaſon againſt the United States, ſhall conſiſt only in levying war againſt them, or in adhering to their enemies, giving them aid and comfort. No perſon ſhall be convicted of treaſon unleſs on the teſtimony of two witneſſes to the ſame overt act, or on confeſſion in open court.

The Congreſs ſhall have power to declare the puniſhment of treaſon; but no attainder of treaſon ſhall work corruption of blood, or forfeiture, except during the life of the perſon attainted.

ARTICLE IV.

Sect. 1. Full faith and credit ſhall be given, in each ſtate, to the public acts, records, and judicial proceedings of every other ſtate. And the Congreſs may by general laws, preſcribe the manner in which ſuch acts, records, and proceedings ſhall be proved, and the effect thereof.

Sect. 2. The citizens of each ſtate ſhall be entitled to all privileges and immunities of citizens in the ſeveral ſtates.

A perſon charged in any ſtate with treaſon, felony, or other crime, who ſhall flee from juſtice, and be found in another ſtate, ſhall on demand of the executive authority of the ſtate from which he fled, be delivered up or be removed to the ſtate having juriſdiction of the crime.

No perſon held to ſervice or labor in one ſtate, under the laws thereof, eſcaping into another, ſhall, in conſequence of any law or regulation therein, be diſcharged from ſuch ſervice or labor; but ſhall be delivered up on claim of the party to whom ſuch ſervice or labor may be due.

Sect. 3. New ſtates may be admitted by the Congreſs into this Union; but no new ſtate ſhall be formed or erected within the juriſdiction of any other ſtate—nor any ſtate be formed by the junction of two or more ſtates, or parts of ſtates—without the conſent of the Legiſlatures of the ſtates concerned as well as of the Congreſs.

The Congreſs ſhall have power to diſpoſe of, and make all needful rules and regulations reſpecting the territory or other property belonging to the United States: and nothing in this conſtitution ſhall be ſo conſtrued, as to prejudice any claims of the United States, or of any particular ſtate.

Sect. 4. The United States ſhall guarantee to every ſtate in this Union, a republican form of government; and ſhall protect each of them againſt invaſion, and on application of the Legiſlature, or of the executive (when the Legiſlature cannot be convened) againſt domeſtic violence.

ARTICLE V.

The Congreſs, whenever two thirds of both Houſes ſhall deem it neceſſary, ſhall propoſe amendments to this Conſtitution, or, on the application of the Legiſlatures of two thirds of the ſeveral ſtates, ſhall call a Convention for propoſing amendments, which, in either caſe, ſhall be valid to all intents and purpoſes, as part of this Conſtitution, when ratified by the Legiſlatures of three fourths of the ſeveral ſtates, or by Conventions in three fourths thereof, as the one or the other mode of ratification may be propoſed by the Congreſs; Provided, that no amendment, which may be made prior to the year one thouſand eight hundred and eight, ſhall in any manner affect the firſt and fourth clauſes in the

ninth ſection of the firſt article: and that no ſtate, without its conſent, ſhall be deprived of its equal ſuffrage in the Senate.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this Conſtitution, ſhall be as valid againſt the United States, under this Conſtitution as under the Confederation.

This Conſtitution, and the laws of the United States which ſhall be made in purſuance thereof, and all Treaties made, or which ſhall be made, under the authority of the United States, ſhall be the ſupreme law of the land, and the Judges, in every ſtate, ſhall be bound thereby, any thing in the Conſtitution or laws of any ſtate to the contrary notwithſtanding.

The Senators and Repreſentatives before mentioned, and the members of the ſeveral State Legiſlatures, and all Executive and Judicial Officers, both of the United States and of the ſeveral ſtates, ſhall be bound, by oath or affirmation to ſupport this Conſtitution; but no religious teſt ſhall ever be required as a qualification to any office or public truſt under the United States.

ARTICLE VII.

The ratification of the Conventions of nine ſtates ſhall be ſufficient for the eſtabliſhment of this Conſtitution between the ſtates ſo ratifying the ſame.

Done in Convention, by the unanimous conſent of the ſtates preſent, the ſeventeenth day of September, in the year of our Lord one thouſand ſeven hundred and eighty ſeven, and of the Independence of the United States of America the twelfth. In witneſs whereof we have hereunto ſubſcribed our names.

Go: WASHINGTON, Preſident,
and Deputy from Virginia.

New-Hampſhire,	John Langdon, Nicholas Gilman.
Maſſachuſetts,	Nathaniel Gorham, Rufus King.
Connecticut,	Wm : Sam : Johnſon, Roger Sherman.
New-York,	Alexander Hamilton.
New-Jerſey,	Wil : Livingſton, David Brearly, W : Patterſon, Jona : Dayton.
Pennſylvania,	B : Franklin, Thomas Mifflin, Rob : Morris, Geo : Clymer, Tho : Fitzſimons, Jared Ingerſol, James Wilſon, Gouv : Morris.
Delaware,	Geo : Read, Gunning Bedford, junr. John Dickinſon, Richard Baſſett, Jaco : Broom.
Maryland,	James M'Henry, Dan : of St : Thos : Jenifer, Danl : Carroll.
Virginia,	John Blair, James Madiſon, jr.
North-Carolina,	Wm : Blount, Richd : Dobbs Spaight, Hu : Williamſon.

South-Carolina, { J : Rutledge,
Ch : Cotesworth Pinckney,
Charles Pinckney,
Peirce Butler.

Georgia, { William Few,
Abr : Baldwin.

Attest, WILLIAM JACKSON, Sec'ry.

IN CONVENTION,

MONDAY, *September* 17, 1787.

PRESENT,

The States of NEW-HAMPSHIRE, MASSACHUSETTS, CONNECTICUT, Mr. *Hamilton*, from NEW-YORK, NEW-JERSEY, PENNSYLVANIA, DELAWARE, MARYLAND, VIRGINIA, NORTH-CAROLINA, SOUTH-CAROLINA, and GEORGIA:

RESOLVED,

THAT the preceding Conſtitution be laid before the United States in Congreſs aſſembled, and that it is the opinion of this Convention, that it ſhould afterwards be ſubmitted to a Convention of Delegates, choſen in each State, by the people thereof, under the recommendation of its Legiſlature, for their aſſent and ratification; and that each Convention aſſenting to, and ratifying the ſame, ſhould give notice thereof to the United States in Congreſs aſſembled.

Reſolved, That it is the opinion of this Convention, that as ſoon as the Conventions of nine States ſhall have ratified this Conſtitution, the United States in Congreſs aſſembled ſhould fix a day on which electors ſhould be appointed by the ſtates which ſhall have ratified the ſame, and a day on which the electors ſhould aſſemble to vote for the Preſident, and the time and place for commencing proceedings under this Conſtitution.——That after ſuch publication the electors ſhould be appointed, and the Senators and Repreſentatives elected: That the electors ſhould meet on the day fixed for the election of the Preſident, and ſhould tranſmit their votes certified, ſigned, ſealed and directed, as the Conſtitution requires, to the Secretary of the United States in Congreſs aſſembled. That the Senators and Repreſentatives ſhould

convene at the time and place aſſigned; that the Senators ſhould appoint a Preſident of the Senate, for the ſole purpoſe of receiving, opening and counting the votes for Preſident; and, that after he ſhall be choſen, the Congreſs, together with the Preſident, ſhould, without delay, proceed to execute this Conſtitution.

By the Unanimous Order of the Convention,

GO: WASHINGTON, *Preſidt.*

W: JACKSON, *Secretary.*

IN CONVENTION,

SEPTEMBER 17, 1787.

SIR,

WE have now the honor to ſubmit to the conſideration of the United States in Congreſs aſſembled, that Conſtitution which has appeared to us the moſt adviſable.

The friends of our country have long ſeen and deſired, that the power of making war, peace and treaties; that of levying money and regulating commerce, and the correſpondent executive and judicial authorities, ſhould be fully and effectually veſted in the general government of the Union: But the impropriety of delegating ſuch extenſive truſt to one body of men is evident—Hence reſults the neceſſity of a different organization.

It is obviouſly impracticable in the federal government of theſe States, to ſecure all rights of independent ſovereignty to each, and yet provide for the intereſt and ſafety of all—Individuals entering into ſociety, muſt give up a ſhare of liberty to preſerve the reſt.—The magnitude of the ſacrifice muſt depend as well on ſituation and circumſtance, as on the object to be obtained. It is at all times difficult to draw with preciſ-

ion the line between thoſe rights which muſt be ſurrendered, and thoſe which may be reſerved; and on the preſent occaſion this difficulty was increaſed by a difference among the ſeveral States as to their ſituation, extent, habits, and particular intereſts.

In all our deliberations on this ſubject we kept ſteadily in our view, that which appears to us the greateſt intereſt of every true American, the conſolidation of our Union, in which is involved our proſperity, felicity, ſafety, perhaps our national exiſtence. This important conſideration ſeriouſly and deeply impreſſed on our minds, led each State in the Convention to be leſs rigid on points of inferior magnitude, than might have been otherwiſe expected: and thus the Conſtitution, which we now preſent, is the reſult of a ſpirit of amity, and of that mutual deference and conceſſion which the peculiarity of our political ſituation rendered indiſpenſable.

That it will meet the full and entire approbation of every State, is not perhaps to be expected; but each will doubtleſs conſider, that had her intereſts been alone conſulted, the conſequences might have been particularly diſagreeable or injurious to others: that it is liable to as few exceptions as could reaſonably have been expected we hope and believe: that it may promote the laſting welfare of that country ſo dear to us all, and ſecure her freedom and happineſs, is our moſt ardent wiſh.

With great reſpect,

We have the Honor to be,

SIR,

Your Excellency's moſt

Obedient and humble Servants,

Go: WASHINGTON, *Preſt.*

By Unanimous Order of the Convention.

His Excellency

The PRESIDENT of Congreſs.

Congreſs of the United States,

BEGUN AND HELD AT THE CITY OF NEW-YORK, ON WEDNESDAY THE FOURTH OF MARCH, ONE THOUSAND SEVEN HUNDRED AND EIGHTY-NINE.

THE Convention of a number of States having at the time of their adopting the CONSTITUTION, *expreſſed a deſire, in order to prevent miſconſtruction or abuſe of its powers, that further declaratory and reſtrictive clauſes ſhould be added—and as extending the ground of public confidence in the government will beſt inſure the beneficent ends of its inſtitution ;*

RESOLVED, *by the Senate and Houſe of Repreſentatives of the United States of America in Congreſs aſſembled, two thirds of both Houſes concurring,* That the following articles be propoſed to the Legiſlatures of the ſeveral ſtates, as amendments to the Conſtitution of the United States, all or any of which articles, when ratified by *three fourths* of the ſaid Legiſlatures, to be valid to all intents and purpoſes, as part of the ſaid Conſtitution ; viz.

ARTICLES in addition to, and amendment of the CONSTITUTION OF THE UNITED STATES OF AMERICA, *propoſed by Congreſs, and ratified by the Legiſlatures of the ſeveral ſtates, purſuant to the fifth article of the original Conſtitution.*

Article the Firſt.

AFTER the firſt enumeration, required by the firſt Article of the Conſtitution, there ſhall be one Repreſentative for every thirty thouſand, until the number ſhall amount to one hundred ; after which, the proportion ſhall be ſo regulated by Congreſs, that there ſhall

be not leſs than one hundred Repreſentatives—nor leſs than one Repreſentative for every forty thouſand perſons—until the number of Repreſentatives ſhall amount to two hundred; after which, the proportion ſhall be ſo regulated by Congreſs that there ſhall be not leſs than two hundred Repreſentatives, nor more than one Repreſentative for every fifty thouſand perſons.

Article the Second.

No law varying the compenſation for the ſervices of the Senators and Repreſentatives, ſhall take effect, until an election of Repreſentatives ſhall have intervened.

Article the Third.

Congreſs ſhall make no law reſpecting an eſtabliſhment of religion, or prohibiting the free exerciſe thereof; or abridging the freedom of ſpeech, or of the preſs; or the right of the people peaceably to aſſemble, and to petition the government for a redreſs of grievances.

Article the Fourth.

A well-regulated militia being neceſſary to the ſecurity of a free ſtate, the right of the people to keep and bear arms ſhall not be infringed.

Article the Fifth.

No ſoldier ſhall in time of peace be quartered in any houſe without the conſent of the owner, nor in time of war, but in a manner to be preſcribed by law.

Article the Sixth.

The right of the people to be ſecure in their perſons, houſes, papers, and effects, againſt unreaſonable ſearches and ſeizures, ſhall not be violated, and no warrants ſhall iſſue, but upon probable cauſe, ſupported by oath or affirmation, and particularly deſcribing the place to be ſearched, and the perſons or things to be ſeized.

Article the Seventh.

No perſon ſhall be held to anſwer for a capital or otherwiſe infamous crime, unleſs on a preſentment or indictment of a grand jury, except in caſes ariſing in the land or naval forces, or in the militia when in actual ſervice in time of war or public danger; nor ſhall any perſon be ſubject for the ſame offence to be twice put in jeopardy of life or limb; nor ſhall be compelled in any criminal caſe to be witneſs againſt himſelf, nor be deprived of life, liberty or property, without due proceſs of law; nor ſhall private property be taken for public uſe without juſt compenſation.

Article the Eighth.

In all criminal proſecutions the accuſed ſhall enjoy the right to a ſpeedy and public trial, by an impartial jury of the ſtate and diſtrict wherein the crime ſhall have been committed, which diſtrict ſhall have been previouſly aſcertained by law, and to be informed of the nature and cauſe of the accuſation; to be confronted with the witneſſes againſt him; to have compulſory proceſs for obtaining witneſſes in his favor, and to have the aſſiſtance of counſel for his defence.

Article the Ninth.

In ſuits at common law, where the value in controverſy ſhall exceed twenty dollars, the right of trial by jury ſhall be preſerved, and no fact, tried by a jury, ſhall be otherwiſe re-examined in any court of the United States, than according to the rules of the common law.

Article the Tenth.

Exceſſive bail ſhall not be required, nor exceſſive fines impoſed, nor cruel and unuſual puniſhments inflicted.

Article the Eleventh.

The enumeration in the Conſtitution, of certain rights, ſhall not be conſtrued to deny or diſparage others retained by the people.

Article the Twelfth.

The powers not delegated to the United States by the Conſtitution, nor prohibited by it to the ſtates, are reſerved to the ſtates reſpectively, or to the people.

FREDERICK AUGUSTUS MUHLENBERG,
Speaker of the Houſe of Repreſentatives.

JOHN ADAMS, *Vice Preſident of the United States, and Preſident of the Senate.*

Attеſt. { JOHN BECKLEY, *Clerk of the Houſe of Repreſentatives.*
SAM. A. OTIS, *Secretary of the Senate.*

RATIFICATIONS OF THE AMENDMENTS *to the* CONSTITUTION *of the* UNITED STATES.

NEW-JERSEY.

State of NEW-JERSEY.

An ACT *to ratify on the part of this State certain Amendments to the Conſtitution of the United States.*

WHEREAS the Congreſs of the United States, begun and held at the city of New-York, on Wedneſday the fourth day of March, one thouſand ſeven hundred and eighty-nine, reſolved, two thirds of both Houſes concurring, That ſundry articles be propoſed to the Legiſlatures of the ſeveral ſtates as amendments to the Conſtitution of the United States, all or any of which articles, when ratified by three-fourths of the ſaid Legiſlatures, to be valid to all intents and purpoſes as part of the ſaid Conſtitution.

And whereas the Preſident of the United States, did in purſuance of a reſolve of the Senate and Houſe of Repreſentatives of the United States of America in Congreſs aſſembled, tranſmit to the Governor of this ſtate

the amendments propoſed by Congreſs, which were by him laid before the Legiſlature for their conſideration. Wherefore,

1. *Be it enacted by the Council and General Aſſembly of this State, and it is hereby enacted by the authority of the ſame,* That the following articles propoſed by Congreſs, in addition to and amendment of the Conſtitution of the United States, to wit:

[Here follow, verbatim, the firſt, third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, eleventh and twelfth articles of the ſaid amendments, propoſed by Congreſs to the legiſlatures of the ſtates.]

Be, and the ſame are hereby ratified and adopted by the State of New Jerſey.

Houſe of Aſſembly, November 19th, 1789.

This bill having been three times read in this Houſe, *Reſolved,* That the ſame do paſs.

By order of the Houſe,

JOHN BEATTY, *Speaker.*

Council Chamber, November 20, 1789.

This bill having been three times read in Council, *Reſolved,* That the ſame do paſs.

By order of the Houſe,

WIL. LIVINGSTON, *Pres't.*

City of Burlington, ſtate of New-Jerſey, Auguſt 3, A. D. 1790.

THESE are to certify that the annexed law is a true copy taken from the original, enrolled in my office.

BOWES REED, *Sec'y.*

MARYLAND.

An ACT *to ratify certain articles in addition to, and amendment of, the Conſtitution of the United States of America, propoſed by Congreſs to the Legiſlatures of the ſeveral States.*

WHEREAS it is provided by the fifth article of the Conſtitution of the United States of America, that

Congreſs, whenever two-thirds of both Houſes ſhall deem it neceſſary, ſhall propoſe amendments to the ſaid Conſtitution, or on the application of the Legiſlatures of two-thirds of the ſeveral ſtates, ſhall call a convention for propoſing amendments, which in either caſe ſhall be valid to all intents and purpoſes as part of the ſaid Conſtitution, when ratified by the Legiſlatures of three-fourths of the ſeveral ſtates, or by conventions in three-fourths thereof, as the one or the other modes of ratification may be propoſed by the Congreſs.

And whereas at a ſeſſion of the United States, begun and held at the city of New-York, on Wedneſday the fourth day of March, in the year of our Lord one thouſand ſeven hundred and eighty-nine, it was reſolved by the Senate and Houſe of Repreſentatives of the ſaid United States in Congreſs aſſembled, two thirds of both Houſes concurring, that the following articles be propoſed to the Legiſlatures of the ſeveral ſtates, as amendments to the Conſtitution of the United States, all or any of which articles, when ratified by three-fourths of the ſaid Legiſlatures, to be valid to all intents and purpoſes, as part of the ſaid Conſtitution, viz.

[Here follow verbatim the firſt, ſecond, third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, eleventh, and twelfth articles of the ſaid amendments, propoſed by Congreſs to the Legiſlatures of the ſeveral ſtates.]

Be it enacted by the General Aſſembly of Maryland, That the aforeſaid articles and each of them be, and they are hereby confirmed and ratified.

By the Houſe of Delegates, December 17th, 1789.
Read and aſſented to. By order,
W. HARWOOD, *Clk.*

By the Senate, Decr. 19th, 1789.
Read and aſſented to. By order,
H^y. RIDGELY, *Clk.*

J. E. HOWARD. (*Seal.*)

I HEREBY certify that the above is a true copy from the original engroſſed act, as paſſed by the Legiſlature of the ſtate of Maryland.

T. JOHNSON, jr. *Clk. Council.*

NORTH-CAROLINA.

An ACT *to ratify the amendments to the Conſtitution of the United States.*

WHEREAS the Senate and Houſe of Repreſentatives of the United States of America in Congreſs aſſembled, on the fourth day of March, did reſolve, two-thirds of both Houſes concurring, that the following articles be propoſed to the Legiſlatures of the ſeveral ſtates, as amendments to the Conſtitution of the United States, all or any of which articles when ratified by three-fourths of the ſaid Legiſlatures, to be valid to all intents and purpoſes as part of the ſaid Conſtitution.

[Here follow verbatim the firſt, ſecond, third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, eleventh, and twelfth articles of the ſaid amendments, propoſed by Congreſs to the Legiſlatures of the ſeveral ſtates.]

Be it therefore enacted by the General Aſſembly of the ſtate of North-Carolina, and it is hereby enacted by the authority of the ſame, That the ſaid amendments, agreeable to the fifth article of the original Conſtitution, be held and ratified on the part of this ſtate, as articles in addition to, and amendments of the Conſtitution of the United States of America.

CHA's. JOHNSON, *S. S.*
S. CABARRUS, *S. H. C.*

Read three times and ratified in General Aſſembly, this 22d day of December, A. D. 1789.

State of North-Carolina.

I, James Glaſgow, ſecretary of the ſaid ſtate, do hereby certify the foregoing to be a true copy of the original act of the Aſſembly, filed in the ſecretary's office. In teſtimony whereof, I have hereto ſet my hand, this tenth day of February, 1790.

J. GLASGOW.

SOUTH-CAROLINA.

In the Houſe *of* Repreſentatives, *January* 18*th*, 1790.

THE Houſe took into conſideration the report of the committee, to whom was referred the reſolution of the Congreſs of the United States of the fourth day of March, one thouſand ſeven hundred and eighty-nine, propoſing amendments to the Conſtitution of the United States, viz :

[Here follow verbatim the firſt, ſecond, third, fourth, fifth, ſixth, ſeventh, eigth, ninth, tenth, eleventh, and twelfth articles of the ſaid amendments, propoſed by Congreſs to the Legiſlatures of the ſeveral ſtates.]

Which being read through, was agreed to: Whereupon,

Reſolved, That this Houſe do adopt the ſaid ſeveral articles, and that they become a part of the Conſtitution of the United States.

Reſolved, That the reſolutions be ſent to the Senate for their concurrence.

By order of the Houſe,
JACOB READ, *Speaker of the Houſe of Repreſentatives.*

In the Senate, January 19*th*, 1790.

Reſolved, That this Houſe do concur with the Houſe of Repreſentatives in the foregoing reſolutions.

By order of the Senate,
D. DE SAUSSURE, *Preſident of the Senate.*

NEW-HAMPSHIRE.

State of NEW-HAMPSHIRE.

In the Houſe of Repreſentatives, Jan. 25*th*, 1790.

UPON reading and maturely conſidering the propoſed amendments to the federal Conſtitution,

Voted to accept the whole of the ſaid amendments, except the ſecond article, which was rejected.

Sent up for concurrence.

THOS. BARTLETT, *Speaker.*

In Senate, the ſame day, read and concurred.

J. PEARSON, *Sec'y.*

A true copy.

Atteſt, JOSEPH PEARSON, *Sec'y.*

DELAWARE.

THE General Aſſembly of Delaware having taken into their conſideration the above amendments propoſed by Congreſs, to the reſpective Legiſlatures of the ſeveral ſtates:

Reſolved, That the firſt article be poſtponed.

Reſolved, That the General Aſſembly do agree to the ſecond, third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, eleventh, and twelfth articles; and we do hereby aſſent to, ratify and confirm the ſame, as part of the Conſtitution of the United States.

In teſtimony whereof, we have cauſed the great ſeal of the ſtate to be hereunto affixed, this twenty-eighth day of January, in the year of our Lord one thouſand ſeven hundred and ninety, and in the fourteenth year of the Independence of the Delaware ſtate.

Signed by order of Council.

GEO. MITCHEL, *Speaker.*

Seal.

Signed by order of the Houſe of Aſſembly.

JEHU DAVIS, *Speaker.*

NEW-YORK.

The People of the State of New-York, by the grace of God, free and independent.

To all to whom theſe Preſents ſhall come, or may concern—greeting.

KNOW YE, That we having inſpected the records remaining in our ſecretary's office, do find there a certain act of our Legiſlature, in the words and figures following:

An ACT *ratifying certain articles in addition to, and amendment of, the Conſtitution of the United States of* AMERICA, *propoſed by the Congreſs*

WHEREAS by the fifth article of the Conſtitution of the United States of America, it is provided, that the Congreſs, whenever two thirds of both Houſes ſhall deem it neceſſary, ſhall propoſe amendments to the ſaid Conſtitution, which ſhall be valid to all intents and purpoſes as part of the ſaid Conſtitution, when ratified by the legiſlatures of three fourths of the ſeveral ſtates, or by conventions in three fourths thereof, as the one or the other mode of ratification may be propoſed by the Congreſs.

And whereas in the ſeſſion of the Congreſs of the United States of America, begun and held at the city of New-York, on Wedneſday the fourth of March, one thouſand ſeven hundred and eighty nine, it was reſolved by the Senate and Houſe of Repreſentatives of the United States of America, in Congreſs aſſembled, two thirds of both Houſes concurring, that the following articles be propoſed to the legiſlatures of the ſeveral ſtates, as amendments to the conſtitution of the United States, all or any of which articles, when ratified by three fourths of the ſaid legiſlatures, to be valid to all intents and purpoſes as part of the ſaid Conſtitution, viz.

[Here follow verbatim, the firſt, ſecond, third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, eleventh, and twelfth articles of the ſaid amendments, propoſed by Congreſs to the legiſlatures of the ſeveral ſtates.]

And whereas the legiſlature of this ſtate have conſidered the ſaid articles, and do agree to the ſame, except the ſecond article; Therefore,

Be it enacted by the People of the State of New York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame, That the ſaid articles, except the ſecond, ſhall be and hereby are ratified by the legiſlature of this ſtate.

State of New-York, in Aſſembly, Feb. 22, 1790.

This bill having been read the third time,

RESOLVED, That the bill do paſs.

By order of the Assembly,
GULIAN VERPLANCK, SPEAKER.
State of New-York, in Senate, Feb. 24th, 1790.
This bill having been read a third time,
RESOLVED, That the bill do pass.
By order of the Senate.
ISAAC ROOSEVELT, *President pro hac vice.*

Council of Revision, 27th February, 1790.
Resolved, That it does not appear improper to the Council, that this bill, entitled, "An act ratifying certain articles in addition to, and amendment of, the Constitution of the United States of America, proposed by the Congress," should become a law of this state.
GEO: CLINTON."

All which we have caused to be exemplified by these presents: In testimony whereof, we have caused these our letters to be made patent, and the great seal of our said state to be hereunto affixed: Witness our trusty and well beloved George Clinton, esquire, governor of our said state, general and commander in chief of all the militia, and admiral of the navy of the same, at our city of New-York, the twenty-seventh day of March, in the year one thousand seven hundred and ninety, and in the fourteenth year of our independence.

GEO: CLINTON.

SEAL

Passed the Secretary's office, the 27th March, 1790.
LEWIS A: SCOTT, SECRETARY.

PENNSYLVANIA.

In General Assembly.
State of Pennsylvania, to wit.
In pursuance of a resolution of the General Assembly of the state of Pennsylvania, being the legislature there-

of; I do hereby certify, that the paper, hereunto annexed, contains an exact and true exemplification of the act whereof it purports to be a copy, by virtue whereof the ſeveral amendments therein mentioned, propoſed to the Conſtitution of the United States, were, on the part of the commonwealth of Pennſylvania, agreed to, ratified and confirmed.

Given under my hand, and the ſeal of the ſtate, this eleventh day of March, in the year of our Lord one thouſand ſeven hundred and ninety.

RICHARD PETERS, *Speaker.*

Seal.

An ACT *declaring the aſſent of this ſtate to certain amendments to the Conſtitution of the United States.*

Section 1. WHEREAS in purſuance of the fifth article of the Conſtitution of the United States, certain articles of amendment to the ſaid Conſtitution, have been propoſed by the Congreſs of the United States for the conſideration of the legiſlatures of the ſeveral ſtates: And whereas this Houſe, being the legiſlature of the ſtate of Pennſylvania, having maturely deliberated thereupon, have reſolved to adopt and ratify the articles hereafter enumerated, as part of the Conſtitution of the United States.

Sect. 2. *Be it therefore enacted, and it is hereby enacted by the Repreſentatives of the freemen of the commonwealth of Pennſylvania, in General Aſſembly met, and by the authority of the ſame,* That the following Amendments to the Conſtitution of the United States, propoſed by the Congreſs thereof, viz.

[Here follow, the third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, eleventh, and twelfth articles propoſed by Congreſs to the legiſlatures of the ſeveral ſtates.]

Be, and they are hereby ratified on behalf of this ſtate, to become, when ratified by the legiſlatures of three-fourths of the ſeveral ſtates, part of the Conſtitution of the United States.

Signed by order of the Houſe.

RICHARD PETERS, *Speaker.*

Enacted into a law, at Philadelphia, on Wedneſday the tenth day of March, in the year of our Lord, one thouſand ſeven hundred and ninety.

PETER ZACHARY LLOYD, *Clerk of the General Aſſembly.*

I, Mathw. Erwin, Eſq. maſter of the rolls for the ſtate of Pennſylvania, do certify the preceding writing to be a true copy (or exemplification) of a certain law remaining in my office. Witneſs my hand and ſeal of office, the 11th March, 1790.

(Seal.)

MATHW. IRWIN, M. R.

RHODE-ISLAND.

[State of Rhode-Iſland and Providence Plantations.

In General Aſſembly, June Seſſion, A. D. 1790.

An ACT *for ratifying certain Articles as Amendments to the Conſtitution of the United States of America, and which were propoſed by the Congreſs of the ſaid States, at their ſeſſion in March, A. D.* 1780, *to the Legiſlatures of the ſeveral States; purſuant to the fifth article of the aforeſaid Conſtitution.*

BE *it enacted by this General Aſſembly, and by the authority thereof it is hereby enacted,* That the following articles, propoſed by the Congreſs of the United States of America, at their ſeſſion in March, A. D. 1789, to the legiſlatures of the ſeveral ſtates for ratification, as amendments to the conſtitution of the ſaid United States, purſuant to the fifth article of the ſaid Conſtitution, be, and the ſame are hereby fully aſſented to, and ratified on the part of this ſtate, to wit:

[Here follow verbatim, the firſt, third, fourth, fifth, ſixth, ſeventh, eighth, ninth, tenth, eleventh, and twelfth articles of the ſaid amendments propoſed by Congreſs to the Legiſlatures of the ſeveral ſtates.]

It is *Ordered*, That his excellency the Governor be, and he is hereby requeſted to tranſmit to the Preſident of the United States, under the ſeal of this State, a copy of this act, to be communicated to the Senate and Houſe of Repreſentatives of the Congreſs of the ſaid United States.

A true copy duly examined.
Witneſs, HENRY WARD, *Sec'ry.*

PENNSYLVANIA.

An ACT *ratifying on behalf of the ſtate of Pennſylvania, the firſt amendment propoſed by Congreſs to the Conſtitution of the United States.*

WHEREAS in purſuance of the fifth article of the Conſtitution of the United States, certain articles in addition to, and amendment of the ſaid Conſtitution, have been propoſed by the Congreſs of the United States, for the conſideration of the legiſlatures of the ſeveral ſtates; and whereas the legiſlature of the ſtate of Pennſylvania, having maturely deliberated thereupon, have reſolved to adopt and ratify the articles hereafter mentioned, as part of the Conſtitution of the United States.

Sec. 1. *Be it enacted by the Senate and Houſe of Repreſentatives of the Commonwealth of Pennſylvania, in General Aſſembly met, and it is hereby enacted by the authority of the ſame,* That the following article in addition to, and amendment of the Conſtitution of the United States of America, propoſed by the Congreſs thereof, viz.

[here article the firſt was inſerted verbatim.]

be, and it is hereby ratified on behalf of the ſtate of Pennſylvania, to become, when ratified by the legiſlatures of three-fourths of the ſeveral ſtates, part of the Conſtitution of the United States.

WM. BINGHAM, *Speaker of the Houſe of Repreſentatives.*
RICHARD PETERS, *Speaker of the Senate.*
Approved September 21ſt, 1791.
THO's. MIFFLIN, *Gov. of the Commonwealth of Pennſylvania.*

Inrolled the 1ſt October, 1791.

I, Mathw. Irwin, eſquire, maſter of rolls for the ſtate of Pennſylvania, do certify, the preceding writing to be a true copy [or exemplification] of a law inrolled in my office in law book No. 4, page 214, &c. In witneſs whereof I have hereunto ſet my hand and ſeal of office the 12th day of October, A. D. 1791.

(L. S.) MATHW IRWIN, *M. R.*

VERMONT.

An ACT *ratifying certain articles propoſed by Congreſs as amendments to the Conſtitution of the United States.*

WHEREAS the Congreſs of the United States, begun and held at the city of New-York, on Wedneſday the fourth of March, one thouſand ſeven hundred and eighty-nine; Reſolved, that certain articles, to the number of twelve, be propoſed to the legiſlatures of the ſeveral ſtates, as amendments to the Conſtitution of the United States, which articles, when ratified by three-fourths of the ſaid legiſlatures, ſhould be valid to all intents and purpoſes as part of the ſaid Conſtitution; Therefore,

It is hereby enacted by the General Aſſembly of the State of Vermont, That all, and every of ſaid articles ſo propoſed as aforeſaid, be, and the ſame are hereby ratified and confirmed by the legiſlature of this ſtate.

State of Vermont, Secretary of State's Office, ſc.

I hereby certify that the within is a true copy of an act, paſſed by the legiſlature of this ſtate, the third day of November, one thouſand ſeven hundred and ninety-one, and depoſited in this office according to law.

Atteſt, ROSL. HOPKINS, *Sec'ry.*

VIRGINIA.

General Aſſembly, begun and held at the capitol in the city of Richmond, on Monday the ſeventeenth day

of October, in the year of our Lord one thouſand ſeven hundred and ninety-one.

25th October, 1791.

RESOLVED, That the *firſt* article of the amendments propoſed by Congreſs to the Conſtitution of the United States, be ratified by this Commonwealth.

JOHN PRIDE, S. S.
November 3d, 1791. THOS. MATHEWS, Sp. H. D.
Agreed to by the Senate.
Ex'd. Ex'd.

Monday, *the 5th December*, 1791.

Reſolved, That the *ſecond* article of the amendments propoſed by Congreſs to the Conſtitution of the United States, be ratified by this Commonwealth.

JOHN PRIDE, S. S.
December 15th, 1791. THOS. MATHEWS, Sp. H. D.
Agreed to by the Senate.
Ex'd. Ex'd.

Monday, *the 5th December*, 1791.

Reſolved, That the third article of the amendments propoſed by Congreſs to the Conſtitution of the United States be ratified by this Commonwealth.

JOHN PRIDE. S. S.
December 15th, 1791. THOS. MATHEWS, Sp. H. D.
Agreed to by the Senate.
Ex'd. Ex'd,

Monday, *the 5th December*, 1791.

Reſolved, That the *fourth* article of the amendments propoſed by Congreſs to the Conſtitution of the United States, be ratified by this Commonwealth.

JOHN PRIDE, S. S.
December 15th, 1791. THOS. MATHEWS, Sp. H. D.
Agreed to by the Senate.
Ex'd. Ex'd.

Monday, *the 5th December*, 1791.

Reſolved, That the *fifth* article of the amendments propoſed by Congreſs to the Conſtitution of the United States, be ratified by this Commonwealth.

JOHN PRIDE, S. S.
December 15th, 1791. THOS. MATHEWS, Sp. H. D.
Agreed to by the Senate.
Ex'd. Ex'd.

Monday, *the 5th December*, 1791.

Reſolved, That the *ſixth* article of the amendments propoſed by Congreſs to the Conſtitution of the United States be ratified by this Commonwealth.

John Pride, S. S.
December 15*th*, 1791. Thos. Mathews, Sp. H. D.
Agreed to by the Senate.
Ex'd. Ex'd.

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Monday, *the 5th December*, 1791.

Reſolved, That the *ſeventh* article of the amendments propoſed by Congreſs to the Conſtitution of the United States be ratified by this Commonwealth.

John Pride, S. S.
December 15*th*, 1791. Thos. Mathews, Sp. H. D.
Agreed to by the Senate.
Ex'd. Ex'd.

———

Monday, *the 5th December*, 1791.

Reſolved, that the *eighth* article of the amendments propoſed by Congreſs to the Conſtitution of the United States be ratified by this Commonwealth.

John Pride, S. S.
December 15*th*, 1791. Thos. Mathews, Sp. H. D.
Agreed to by the Senate.
Ex'd. Ex'd.

———

Monday, *the 5th December*, 1791.

Reſolved, That the *ninth* article of the amendments propoſed by Congreſs to the Conſtitution of the United States be ratified by this Commonwealth.

John Pride, S. S.
December 15*th*, 1791. Thos. Mathews, Sp. H. D.
Agreed to by the Senate.
Ex'd. Ex'd.

———

Monday, *the 5th December*, 1791.

Reſolved, That the *tenth* article of the amendments propoſed by Congreſs to the Conſtitution of the United states be ratified by this Commonwealth.

John Pride, S. S.
December 15*th*, 1791. Thos. Mathews, Sp. H. D.
Agreed to by the Senate,
Ex'd, Ex'd.

Monday, *the 5th December*, 1791.

Reſolved, That the *eleventh* article of the amendments propoſed by Congreſs to the Conſtitution of the United States be ratified by this Commonwealth.

John Pride, S. S.

December 15th, 1791. Thos. Mathews, Sp. H. D.

Agreed to by the Senate.

Ex'd. Ex'd.

Monday, *the 5th December*, 1791.

Reſolved, That the *twelfth* article of the amendments propoſed by Congreſs to the Conſtitution of the United States be ratified by this Commonwealth.

John Pride, S. S.

December 15th, 1791. Thos. Mathews, Sp. H. D.

Agreed to by the Senate.

Ex'd. Exd.

THE

Constitution of Vermont.

Adopted by the CONVENTION, holden at WINDSOR, July fourth, one thouſand ſeven hundred and ninety-three.

CHAP. I.

A Declaration of the RIGHTS of the Inhabitants of the STATE of VERMONT.

ARTICLE 1.

THAT all men are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongſt which are the enjoying and defending life and liberty, acquiring, poſſeſſing, and protecting property, and purſuing, and obtaining happineſs and ſafety:——therefore no male perſon, born in this country, or brought from over ſea, ought to be holden by law, to ſerve any perſon, as a ſervant, ſlave, or apprentice, after he arrives to the age of twenty one years, nor female in like manner, after ſhe arrives to the age of eighteen years, unleſs they are bound by their own conſent, after they arrive to ſuch age, or bound by law for the payment of debts, damages, fines, coſts, or the like.

ARTICLE 2.

That private property ought to be ſubſervient to public uſes when neceſſity requires it, nevertheleſs, whenever any perſon's property is taken for the uſe of the public, the owner ought to receive an equivalent in money.

ARTICLE 3.

That all men have a natural and unalienable right, to worſhip Almighty God, according to the dictates of their own conſciences and underſtandings, as in their opinion ſhall be regulated by the word of God: and that no man ought to, or of right can be compelled to attend any religious worſhip, or erect or ſupport any place of worſhip, or maintain any miniſter, contrary to the dictates of his conſcience, nor can any man be juſtly deprived or abridged of any civil right as a citizen, on account of his religious ſentiments, or peculiar mode of religious worſhip; and that no authority can, or ought to be veſted in, or aſſumed by, any power whatever, that ſhall in any caſe interfere with, or in any manner control the rights of conſcience, in the free exerciſe of religious worſhip. Nevertheleſs, every ſect or denomination of chriſtians ought to obſerve the ſabbath or Lord's day, and keep up ſome ſort of religious worſhip, which to them ſhall ſeem moſt agreeable to the revealed will of God.

ARTICLE 4.

Every perſon within this ſtate ought to find a certain remedy, by having recourſe to the laws, for all injuries or wrongs which he may receive in his perſon, property or character: he ought to obtain right and juſtice, freely, and without being obliged to purchaſe it; completely and without any denial; promptly and without delay; conformably to the laws.

ARTICLE 5.

That the people of this ſtate by their legal Repreſentatives, have the ſole, inherent, and excluſive right of governing and regulating the internal police of the ſame.

ARTICLE 6.

That all power being originally inherent in and conſequently derived from the people, therefore, all officers of government, whether legiſlative or executive, are their truſtees and ſervants; and at all times, in a legal way, accountable to them.

ARTICLE 7.

That government is, or ought to be, inſtituted for the common benefit, protection, and ſecurity of the people, nation, or community, and not for the particular emolument or advantage of any ſingle man, family, or ſet of men, who are a part only of that community; and that the community hath an indubitable, unalienable, and indefeaſible right, to reform or alter government, in ſuch manner as ſhall be, by that community, judged moſt conducive to the public weal.

ARTICLE 8.

That all elections ought to be free and without corruption, and that all freemen, having a ſufficient, evident, common intereſt with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this conſtitution.

ARTICLE 9.

That every member of ſociety hath a right to be protected in the enjoyment of life, liberty, and property,

and therefore is bound to contribute his proportion towards the expence of that protection, and yield his perſonal ſervice, when neceſſary, or an equivalent thereto, but no part of any perſon's property can be juſtly taken from him, or applied to public uſes, without his own conſent, or that of the Repreſentative Body of the freemen, nor can any man who is conſcientiouſly ſcrupulous of bearing arms, be juſtly compelled thereto, if he will pay ſuch equivalent; nor are the people bound by any law but ſuch as they have in like manner aſſented to, for their common good: and previous to any law being made to raiſe a tax, the purpoſe for which it is to be raiſed ought to appear evident to the Legiſlature to be of more ſervice to community than the money would be if not collected.

ARTICLE 10.

That in all proſecutions for criminal offences, a perſon hath a right to be heard by himſelf and his counſel; to demand the cauſe and nature of his accuſation; to be confronted with the witneſſes; to call for evidence in his favor, and a ſpeedy public trial by an impartial jury of the country; without the unanimous conſent of which jury, he cannot be found guilty; nor can he be compelled to give evidence againſt himſelf; nor can any perſon be juſtly deprived of his liberty, except by the laws of the land, or the judgment of his peers.

ARTICLE 11.

That the people have a right to hold themſelves, their houſes, papers, and poſſeſſions, free from ſearch or ſeizure; and therefore warrants, without oath or affirmation firſt made, affording ſufficient foundation for them, and whereby any officer or meſſenger may be commanded or required to ſearch ſuſpected places, or to ſeize any perſon or perſons, his, her or their property, not particularly deſcribed, are contrary to that right, and ought not to be granted.

ARTICLE 12.

That when any iſſue in fact, proper for the cognizance of a jury is joined in a court of law, the parties have a right to trial by jury, which ought to be held ſacred.

ARTICLE 13.

That the people have a right to freedom of ſpeech, and of writing and publiſhing their ſentiments, concerning the tranſactions of government, and therefore the freedom of the preſs ought not to be reſtrained.

ARTICLE 14.

The freedom of deliberation, ſpeech, and debate, in the Legiſlature, is ſo eſſential to the rights of the people, that it cannot be the foundation of any accuſation or proſecution, action or complaint, in any other court or place whatſoever.

ARTICLE 15.

The power of ſuſpending laws, or the execution of laws, ought never to be exerciſed but by the Legiſlature, or by authority derived from it, to be exerciſed in ſuch particular caſes, as this conſtitution, or the Legiſlature ſhall provide for.

ARTICLE 16.

That the people have a right to bear arms for the defence of themſelves and the State—and as ſtanding armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military ſhould be kept under ſtrict ſubordination to and governed by the civil power.

ARTICLE 17.

That no perſon in this State can in any caſe be ſubjected to law martial, or to any penalties or pains by

virtue of that law, except thoſe employed in the army, and the militia in actual ſervice.

ARTICLE 18.

That frequent recurrence to fundamental principles; and a firm adherence to juſtice, moderation, temperance, induſtry, and frugality, are abſolutely neceſſary to preſerve the bleſſings of liberty, and keep government free; the people ought, therefore, to pay particular attention to theſe points, in the choice of officers and repreſentatives, and have a right, in a legal way, to exact a due and conſtant regard to them, from their Legiſlators and Magiſtrates, in making and executing ſuch laws as are neceſſary for the good government of the State.

ARTICLE 19.

That all people have a natural and inherent right to emigrate from one ſtate to another that will receive them.

ARTICLE 20.

That the people have a right to aſſemble together to conſult for their common good—to inſtruct their Repreſentatives—and apply to the Legiſlature for redreſs of grievances, by addreſs, petition, or remonſtrance.

ARTICLE 21.

That no perſon ſhall be liable to be tranſported out of this State for trial for any offence committed within the ſame.

CHAP. II.

PLAN OR FRAME OF GOVERNMENT.

SECTION I.

THE Commonwealth, or State of Vermont, ſhall be governed hereafter, by a Governor (or Lieutenant-Governor) Council, and an Aſſembly of the Repreſentatives of the freemen of the ſame, in manner and form following :

SECTION 2.

The Supreme Legiſlative power ſhall be veſted in a Houſe of Repreſentatives of the freemen of the Commonwealth, or State of Vermont.

SECTION 3.

The Supreme Executive power ſhall be veſted in a Governor, or, in his abſence, a Lieutenant Governor, and Council.

SECTION 4.

Courts of juſtice ſhall be maintained in every county in this State, and alſo in new counties, when formed ; which courts ſhall be open for the trial of all cauſes proper for their cognizance ; and juſtice, ſhall be therein impartially adminiſtered, without corruption, or unneceſſary delay. The Judges of the Supreme Court ſhall be Juſtices of the Peace throughout the State ; and the ſeveral Judges of the County Courts, in their reſpective counties, by virtue of their office, except in the trial of ſuch cauſes as may be appealed to the County Court.

SECTION 5.

A future Legiſlature may, when they ſhall conceive the ſame to be expedient and neceſſary, erect a Court of Chancery, with ſuch powers as are uſually exercifed by that court, or as ſhall appear for the intereſt of the Commonwealth——*Provided*, they do not conſtitute themſelves the Judges of the ſaid court.

SECTION 6.

The Legiſlative, Executive, and Judiciary departments, ſhall be ſeparate and diſtinct, ſo that neither exerciſe the powers properly belonging to the other.

SECTION 7.

In order that the freemen of this State might enjoy the benefit of election as equally as may be, each town within this State, that conſiſts, or may conſiſt of eighty taxable inhabitants, within one ſeptenary or ſeven years next after the eſtabliſhing this conſtitution, may hold elections therein, and chuſe each two Repreſentatives; and each other inhabited town in this State, may, in like manner, chuſe each one Repreſentative, to repreſent them in General Aſſembly, during the ſaid ſeptenary, or ſeven years; and after that, each inhabited town may, in like manner hold ſuch election, and chuſe each one Repreſentative forever thereafter.

SECTION 8.

The Houſe of Repreſentatives of the freemen of this State, ſhall conſiſt of perſons moſt noted for wiſdom and virtue, to be choſen by ballot, by the freemen of every town in this State, reſpectively, on the firſt Tueſday of September annually, forever.

SECTION 9.

The Repreſentatives ſo choſen (a majority of whom ſhall conſtitute a quorum for tranſacting any other bu-

ſineſs than raiſing a ſtate tax, for which two thirds of the members elected ſhall be preſent) ſhall meet on the ſecond Thurſday of the ſucceeding October, and ſhall be ſtiled *The General Aſſembly of the State of Vermont*: they ſhall have power to chuſe their Speaker, Secretary of ſtate, their Clerk and other neceſſary officers of the Houſe—ſit on their own adjournments—prepare bills and enact them into laws—judge of the elections and qualifications of their own members: they may expel members, but not for cauſes known to their conſtituents antecedent to their election: they may adminiſter oaths and affirmations in matters depending before them—redreſs grievances—impeach ſtate criminals—grant charters of incorporation—conſtitute towns, boroughs, cities and counties: they may annually on their firſt ſeſſion after their election, in conjunction with the Council (or oftener if need be) elect Judges of the Supreme and ſeveral County and Probate Courts, Sheriffs and Juſtices of the Peace; and alſo, with the Council, may elect Major-Generals and Brigadier-Generals, from time to time, as often as there ſhall be occaſion: and they ſhall have all other powers neceſſary for the Legiſlature of a free and ſovereign State: but they ſhall have no power to add to, alter, aboliſh, or infringe any part of this Conſtitution.

SECTION 10.

The Supreme Executive Council of this State, ſhall conſiſt of a Governor, Lieutenant-Governor, and twelve perſons, choſen in the following manner, viz. The Freemen of each town ſhall, on the day of the election for chuſing Repreſentatives to attend the General aſſembly, bring in their votes for Governor, with his name fairly written, to the Conſtable, who ſhall ſeal them up, and write on them, *Votes for the Governor*, and deliver them to the Repreſentatives choſen to attend the General Aſſembly; and at the opening of the General Aſſembly, there ſhall be a committee appointed out of the Council and Aſſembly, who, after being

duly ſworn to the faithful diſcharge of their truſt, ſhall proceed to receive, ſort and count the votes for the Governor, and declare the perſon who has the major part of the votes, to be Governor for the year enſuing. And if there be no choice made, then the Council and General Aſſembly, by their joint ballot, ſhall make choice of a Governor. The Lieutenant-Governor, and Treaſurer ſhall be choſen in the manner above directed. And each Freeman ſhall give in twelve votes for twelve Councillors, in the ſame manner, and the twelve higheſt in nomination ſhall ſerve for the enſuing year as Councillors.

SECTION II.

The Governor, and in his abſence, the Lieutenant Governor, with the Council (a major part of whom, including the Governor, or Lieutenant-Governor, ſhall be a quorum to tranſact buſineſs) ſhall have power to commiſſion all officers—and alſo to appoint officers, except where proviſion is, or ſhall be otherwiſe made, by law or this frame of government—and ſhall ſupply every vacancy in any office, occaſioned by death or otherwiſe, until the office can be filled in the manner directed by law or this Conſtitution.

They are to correſpond with other States—tranſact buſineſs with officers of government, civil and military—and to prepare ſuch buſineſs as may appear to them neceſſary, to lay before the General Aſſembly. They ſhall ſit as Judges to hear and determine on impeachments, taking to their aſſiſtance, for advice only, the Judges of the Supreme Court. And ſhall have power to grant pardons and remit fines, in all caſes whatſoever, except in treaſon and murder; in which they ſhall have power to grant reprieves, but not to pardon, until after the end of the next ſeſſion of Aſſembly; and except in caſes of impeachment, in which there ſhall be no remiſſion, or mitigation of puniſhment, but by act of legiſlation.

They are also to take care that the laws be faithfully executed. They are to expedite the execution of such measures as may be resolved upon by the General Assembly. And they may draw upon the treasury for such sums as may be appropriated by the House of Representatives. They may also lay embargoes, or prohibit the exportation of any commodity, for any time not exceeding thirty days, in the recess of the House only. They may grant such licences as shall be directed by law; and shall have power to call together the General Assembly, when necessary, before the day to which they shall stand adjourned. The Governor shall be Captain General and Commander in Chief of the forces of the State, but shall not command in person, except advised thereto by the Council, and then only so long as they shall approve thereof. And the Lieutenant-Governor shall, by virtue of his office, be Lieutenant-General of all the forces of the State. The Governor, or Lieutenant-Governor, and the Council, shall meet at the time and place with the General Assembly: the Lieutenant-Governor shall, during the presence of the Commander in Chief, vote and act as one of the Council: and the Governor, and in his absence the Lieutenant-Governor, shall, by virtue of their offices, preside in Council, and have a casting but no other vote. Every Member of the Council shall be a Justice of the Peace for the whole State, by virtue of his office. The Governor and Council shall have a Secretary, and keep fair books of their proceedings, wherein any Councillor may enter his dissent, with his reasons to support it; and the Governor may appoint a Secretary for himself and the Council.

SECTION II.

The Representatives having met, and chosen their Speaker and Clerk, shall each of them, before they proceed to business, take and subscribe, as well the oath or affirmation of allegiance herein after directed (ex-

cept where they ſhall produce certificates of their having heretofore taken and ſubſcribed the ſame) as the following oath or affirmation, viz.

" You ——————— do ſolemnly ſwear (or affirm) that as a Member of this Aſſembly, you will not propoſe, or aſſent to any bill, vote, or reſolution, which ſhall appear to you injurious to the people, nor do or conſent to any act or thing whatever, that ſhall have a tendency to leſſen or abridge their rights and privileges, as declared by the Conſtitution of this State; but will, in all things, conduct yourſelf as a faithful, honeſt Repreſentative, and guardian of the people, according to the beſt of your judgment and abilities. (*In caſe of an oath*) ſo help you God. (*And in caſe of an affirmation*) under the pains and penalties of perjury."

SECTION 13.

The doors of the houſe in which the General Aſſembly of this Commonwealth ſhall ſit, ſhall be open for the admiſſion of all perſons who behave decently, except only when the welfare of the State may require them to be ſhut.

SECTION 14.

The votes and proceedings of the General Aſſembly ſhall be printed (when one third of the members think it neceſſary) as ſoon as convenient after the end of each ſeſſion, with the yeas and nays on any queſtion, when required by any member (except where the votes ſhall be taken by ballot) in which caſe every member ſhall have a right to inſert the reaſons of his vote upon the minutes.

SECTION 15.

The ſtile of the laws of this State in future to be paſſed, ſhall be, *It is hereby enacted by the General Aſſembly of the State of Vermont.*

SECTION 16.

To the end that laws, before they are enacted, may be more maturely conſidered, and the inconvenience of haſty determinations as much as poſſible prevented, all bills which originate in the Aſſembly, ſhall be laid before the Governor and Council for their reviſion and concurrence, or propoſals of amendment; who ſhall return the ſame to the Aſſembly, with their propoſals of amendment, if any, in writing; and if the ſame are not agreed to by the Aſſembly, it ſhall be in the power of the Governor and Council to ſuſpend the paſſing of ſuch bills until the next ſeſſion of the Legiſlature. Provided, That if the Governor and Council ſhall neglect or refuſe to return any ſuch bill to the Aſſembly, with written propoſals of amendment, within five days, or before the riſing of the Legiſlature, the ſame ſhall become a law.

SECTION 17.

No money ſhall be drawn out of the Treaſury, unleſs firſt appropriated by act of Legiſlation.

SECTION 18.

No perſon ſhall be elected a Repreſentative, until he has reſided two years in this ſtate; the laſt of which ſhall be in the town for which he is elected.

SECTION 19.

No member of the Council, or Houſe of Repreſentatives, ſhall, directly or indirectly, receive any fee or reward, to bring forward, or advocate any bill, petition, or other buſineſs, to be tranſacted in the Legiſlature; or advocate any cauſe, as Council, in either Houſe of Legiſlation, except when employed in behalf of the State.

SECTION 20.

No perſon ought in any caſe, or in any time, to be declared guilty of treaſon or felony, by the Legiſlature.

SECTION 21.

Every man, of the full age of twenty-one years, having reſided in this State for the ſpace of one whole year next before the election of Repreſentatives, and is of a quiet and peaceable behaviour, and will take the following oath or affirmation, ſhall be entitled to all the privileges of a freeman of this State.

"You ſolemnly ſwear (or affirm) that whenever you give your vote or ſuffrage, touching any matter that concerns the State of Vermont, you will do it ſo as in your conſcience you ſhall judge will moſt conduce to the beſt good of the ſame, as eſtabliſhed by the conſtitution, without fear or favor of any man."

SECTION 22.

The inhabitants of this State ſhall be trained and armed for its defence, under ſuch regulations, reſtrictions, and exceptions, as Congreſs, agreeably to the Conſtitution of the United States, and the Legiſlature of this State, ſhall direct. The ſeveral companies of militia ſhall, as often as vacancies happen, elect their Captain and other officers, and the Captains and ſubalterns ſhall nominate and recommend the field officers, of their reſpective regiments, who ſhall appoint their ſtaff officers.

SECTION 23.

All Commiſſions ſhall be in the name of the freemen of the State of Vermont, ſealed with the State ſeal, ſigned by the Governor, and in his abſence, the

Lieutenant Governor, and attested by the Secretary; which ſeal ſhall be kept by the Governor.

SECTION 24.

Every officer of ſtate, whether judicial or executive, ſhall be liable to be impeached by the General Aſſembly, either when in office, or after his reſignation or removal for mal-adminiſtration. All impeachments ſhall be before the Governor, or Lieutenant Governor, and Council, who ſhall hear and determine the ſame, and may award coſts; and no trial or impeachment ſhall be a bar to a proſecution at law.

SECTION 25.

As every freeman, to preſerve his independence (if without a ſufficient eſtate) ought to have ſome profeſſion, calling, trade, or farm, whereby he may honeſtly ſubſiſt, there can be no neceſſity for, nor uſe in, eſtabliſhing offices of profit, the uſual effects of which are dependance and ſervility, unbecoming freemen in the poſſeſſors or expectants, and faction, contention and diſcord among the people. But if any man is called into public ſervice to the prejudice of his private affairs, he has a right to a reaſonable compenſation; and whenever an office thro' increaſe of fees or otherwiſe, becomes ſo profitable as to occaſion many to apply for it, the profits ought to be leſſened by the Legiſlature. And if any officer ſhall wittingly and wilfully, take greater fees than the law allows him, it ſhall ever after diſqualify him from holding any office in this State, until he ſhall be reſtored by act of Legiſlation.

SECTION. 26.

No perſon in this State ſhall be capable of holding or exerciſing more than one of the following offices at the ſame time, viz. Governor, Lieutenant-Governor, Judge of the Supreme Court, Treaſurer of the State, Member of the Council, Member of the General Aſ-

ſembly, Surveyor General, or Sheriff. Nor ſhall any perſon holding any office of profit or truſt under the authority of Congreſs, be eligible to any appointment in the Legiſlature, or of holding any executive or judiciary office under this State.

SECTION 27.

The Treaſurer of the State ſhall, before the Governor and Council, give ſufficient ſecurity to the Secretary of the State, in behalf of the General Aſſembly; and each High Sheriff, before the firſt judge of the County Court, to the Treaſurer of their reſpective Counties, previous to their reſpectively entering upon the execution of their offices, in ſuch manner, and in ſuch ſums, as ſhall be directed by the Legiſlature.

SECTION 28.

The Treaſurer's accounts ſhall be annually audited, and a fair ſtate thereof laid before the General Aſſembly, at their ſeſſion in October.

SECTION 29.

Every officer, whether judicial, executive, or military, in authority under this State, before he enters upon the execution of his office, ſhall take and ſubſcribe the following oath or affirmation of allegiance to this State (unleſs he ſhall produce evidence that he has before taken the ſame) and alſo the following oath or affirmation of office, except military officers, and ſuch as ſhall be exempted by the Legiſlature.

The oath or affirmation of allegiance.

" You do ſolemnly ſwear (*or affirm*) that you will be true and faithful to the State of Vermont, and that you will not, directly or indirectly, do any act or thing injurious to the Conſtitution or Government thereof, as eſtabliſhed by Convention. (*If an oath*) ſo help you

God. (*If an affirmation*) under the pains and penalties of perjury."

The oath or affirmation of office.

"You —— do ſolemnly ſwear, (*or affirm*) that you will faithfully execute the office of —— for the —— of ——; and will therein do equal right and juſtice to all men, to the beſt of your judgment and abilities, according to law. (*If an oath*) ſo help you God. (*If an affirmation*) under the pains and penalties of perjury."

SECTION 30.

No perſon ſhall be eligible to the office of Governor or Lieutenant-Governor, until he ſhall have reſided in this State four years next preceding the day of his election.

SECTION 31.

Trials of iſſues, proper for the cognizance of a Jury, in the Supreme and County Courts, ſhall be by Jury, except where parties otherwiſe agree; and great care ought to be taken to prevent corruption or partiality in the choice and return, or appointment of Juries.

SECTION 32.

All proſecutions ſhall commence, *By the authority of the State of Vermont*—all indictments ſhall conclude with theſe words, *againſt the peace and dignity of the State.* And all fines ſhall be proportioned to the offences.

SECTION 33.

The perſon of a debtor, where there is not ſtrong preſumption of fraud, ſhall not be continued in priſon after delivering up and aſſigning over, *bona fide*, all his eſtate, real and perſonal, in poſſeſſion, reverſion or re-

mainder, for the uſe of his creditors, in ſuch manner as ſhall be hereafter regulated by law. And all priſoners, unleſs in execution, or committed for capital offences, when the proof is evident or preſumption great, ſhall be bailable by ſufficient ſureties; nor ſhall exceſſive bail be exacted for bailable offences.

SECTION 34.

All elections, whether by the people or the Legiſlature, ſhall be free and voluntary: and any elector, who ſhall receive any gift or reward for his vote, in meat, drink, monies or otherwiſe, ſhall forfeit his right to elect at that time, and ſuffer ſuch other penalty as the law ſhall direct; and any perſon who ſhall directly or indirectly, give, promiſe or beſtow, any ſuch rewards to be elected, ſhall thereby be rendered incapable to ſerve for the enſuing year, and be ſubject to ſuch further puniſhment as a future Legiſlature ſhall direct.

SECTION 35.

All deeds and conveyances of land ſhall be recorded in the Town Clerk's Office in their reſpective towns; and, for want thereof, in the County Clerk's Office of the ſame County.

SECTION 36.

The Legiſlature ſhall regulate entails in ſuch manner as to prevent perpetuities.

SECTION 37.

To deter more effectually from the commiſſion of crimes, by continued viſible puniſhments of long duration, and to make ſanguinary puniſhments leſs neceſſary, means ought to be provided for puniſhing by hard labor, thoſe who ſhall be convicted of crimes not capital, whereby the criminal ſhall be employed for the benefit of the public, or for the reparation of injuries

done to private perſons: And all perſons at proper times ought to be permitted to ſee them at their labor.

SECTION 38.

The eſtates of ſuch perſons as may deſtroy their own lives, ſhall not, for that offence, be forfeited, but deſcend or aſcend in the ſame manner as if ſuch perſons had died in a natural way. Nor ſhall any article, which ſhall accidentally occaſion the death of any perſon, be henceforth deemed a deodand, or in any wiſe forfeited on account of ſuch misfortune.

SECTION 39.

Every perſon, of good character, who comes to ſettle in this State, having firſt taken an oath or affirmation of allegiance to the ſame, may purchaſe, or by other juſt means acquire, hold and transfer land, or other real eſtate; and after, one year's reſidence, ſhall be deemed a free denizen thereof, and entitled to all rights of a natural born ſubject of this State, except that he ſhall not be capable of being elected Governor, Lieutenant-Governor, Treaſurer, Councillor, or Repreſentative in Aſſembly, until after two years reſidence.

SECTION 40.

The inhabitants of this State ſhall have liberty in ſeaſonable times, to hunt and fowl on the lands they hold, and on other lands not incloſed; and in like manner to fiſh in all boatable and other waters (not private property) under proper regulations, to be hereafter made and provided by the General Aſſembly.

SECTION 41.

Laws for the encouragement of virtue and prevention of vice and immorality, ought to be conſtantly kept in force, and duly executed: And a competent

number of ſchools ought to be maintained in each town, for the convenient inſtruction of youth: And one or more Grammar-Schools be incorporated and properly ſupported, in each County in this State. And all religious ſocieties, or bodies of men, that may be hereafter united or incorporated for the advancement of religion and learning, or for other pious and charitable purpoſes, ſhall be encouraged and protected in the enjoyment of the privileges, immunities, and eſtates, which they in juſtice ought to enjoy, under ſuch regulations as the General Aſſembly of this State ſhall direct.

SECTION 42.

The declaration of the political rights and privileges of the inhabitants of this State, is hereby declared to be a part of the Conſtitution of this Commonwealth; and ought not to be violated, on any pretence whatſoever.

SECTION 43.

In order that the freedom of this Commonwealth may be preſerved inviolate forever, there ſhall be choſen, by ballot, by the freemen of this State, on the laſt Wedneſday in March, in the year one thouſand ſeven hundred and ninety-nine, and on the laſt Wedneſday in March in every ſeven years thereafter, thirteen perſons, who ſhall be choſen in the ſame manner the Council is choſen, except they ſhall not be out of the Council or General Aſſembly, to be called the Council of Cenſors; who ſhall meet together on the firſt Wedneſday in June next enſuing their election, the majority of whom ſhall be a quorum in every caſe, except as to calling a convention, in which two thirds of the whole number elected ſhall agree: and whoſe duty it ſhall be to enquire, whether the conſtitution has been preſerved inviolate in every part, during the laſt ſeptenary, (including the year of their ſervice); and whether the legiſlative and executive branches of govern-

ment have performed their duty, as guardians of the people, or aſſumed to themſelves, or exerciſed, other or greater powers than they are entitled to by the conſtitution:—They are alſo to enquire, whether the public taxes have been juſtly laid and collected in all parts of this Commonwealth—in what manner the public monies have been diſpoſed of—and whether the laws have been duly executed.——For theſe purpoſes they ſhall have power to ſend for perſons, papers, and records—they ſhall have authority to paſs public cenſures, to order impeachments, and to recommend to the Legiſlature the repealing ſuch laws as ſhall appear to them to have been paſſed, contrary to the principles of the conſtitution: Theſe powers they ſhall continue to have for and during the ſpace of one year from the day of their election, and no longer. The ſaid Council of Cenſors ſhall alſo have power to call a convention, to meet within two years after their ſitting, if there appears to them an abſolute neceſſity of amending any article of this conſtitution, which may be defective—explaining ſuch as may be thought not clearly expreſſed—and of adding ſuch as are neceſſary for the preſervation of the rights and happineſs of the people; but the articles to be amended, and the amendments propoſed, and ſuch articles as are propoſed to be added or aboliſhed, ſhall be promulgated at leaſt ſix months before the day appointed for the election of ſuch Convention, for the previous conſideration of the people, that they may have an opportunity of inſtructing their Delegates on the ſubject.

By order of Convention, July 9th, 1793.

THOMAS CHITTENDEN, *Preſident.*

Atteſt, LEWIS R. MORRIS, *Secretary.*

LAWS

OF THE

State of Vermont.

CHAPTER I.

An ACT *directing the mode of paſſing laws.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That when the governor and council, ſhall originate, and lay any bill, before the houſe of repreſentatives, and the ſame ſhall paſs the houſe, without amendment, the governor and council ſhall be informed thereof, by a written meſſage, and the ſame ſhall become a law.

Mode of paſſing laws when originated in council.

SEC. 2. *And it is hereby further enacted*, That when a bill ſhall originate and paſs in the houſe of repreſentatives, it ſhall be ſent to the governor and council, for their reviſion, and concurrence, or propoſals of amendment; and if no amendment, or amendments, ſhall be by them propoſed, within five days, or before the adjournment, or riſing of the legiſlature, the ſaid bill ſhall become a law; but if amendment or amendments, be propoſed to any bill, and the houſe ſhall concur, the governor and

When originated in the houſe of repreſentatives.

council ſhall be informed thereof, by a written meſſage, and the ſaid bill ſhall become a law, but if all, or a part of the propoſed amendments ſhall not be concurred in by the houſe of repreſentatives, (the reaſon for which amendments ſhall be given, verbally or in writing) the bill ſhall be returned to the governor and council, and the reaſons of ſuch non-concurrence be given, either verbally or in writing, that the council may, if they ſhall think proper, proceed further thereon. And if the governor and council ſhall not within five days, or before the riſing of the legiſlature, propoſe further amendments, which ſhall be agreed to by the houſe of repreſentatives, or reſcind from their former propoſals of amendment, not concurred by the houſe, or ſuſpend the paſſing of ſuch bill, the ſaid bill ſhall be returned to the houſe of repreſentatives, and become a law.

The two houſes not agreeing may meet in joint committee.

SEC. 3. *And it is hereby further enacted*, That if the governor, council and houſe of repreſentatives, cannot ſeparately agree in paſſing a bill, to which amendments ſhall be propoſed as aforeſaid, they may meet in joint committee, in order that their joint wiſdom may be fully obtained, after the diſſolution of the committee, the houſe of repreſentatives may proceed as before directed in this act.

Laws to be delivered to the ſec'y of ſtate.

SEC. 4. *And it is hereby further enacted*, That all bills remaining with the governor and council at the riſing, or adjournment, of the legiſlature, at every ſeſſion thereof, which ſhall have paſſed and become laws as aforeſaid, ſhall by the ſecretary of council, be delivered to the ſecretary of ſtate for record.

Paſſed February 22d, 1797.

CHAPTER II.

An ACT *adopting the common law of* England, *and declaring that all perſons ſhall be equally entitled to the benefit and privilege of law and juſtice.*

WHEREAS from the peculiar ſituation of this State, as a new formed government, it is difficult at once to provide a ſyſtem of maxims, and precedents, which may, in all caſes, be neceſſary as a guide and direction to the ſeveral courts of juſtice within this ſtate, and for producing uniformity of deciſions in the ſame, and whereas the inhabitants have been accuſtomed to conform their manners to the laws of England—Therefore, Preamble.

SECTION I. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That ſo much of the common law of England, as is applicable to the local ſituation, and circumſtances, and is not repugnant to the conſtitution, or to any act of the Legiſlature of this State, be and hereby is adopted law, within this ſtate, and all courts are to take notice thereof and govern themſelves accordingly. Common law of England adopted.

SEC. 2. *And it is hereby further enacted*, That in all caſes proper for the cognizance of the civil authority of this ſtate and the courts of judicature in the ſame, all the citizens of the United States of America ſhall within this ſtate or commonwealth be equally entitled to the privileges of law and juſtice with the citizens of this ſtate. Perſons entitled to the privileges of law.

SEC. 3. *And it is hereby further enacted*, That no perſon's body ſhall be reſtrained or impriſoned unleſs by authority of law. No perſon to be impriſoned unleſs by authority of law.

Paſſed Nov. 4 1797.

CHAPTER III.

An ACT *conſtituting the* Supreme Court *of* Judicature *and* County Courts, *defining their powers, and regulating judicial proceedings.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That there ſhall be, and hereby is conſtituted, a county court, in the ſeveral counties in this ſtate, (to be holden at ſuch times and places, as ſhall be appointed by law for that purpoſe), which ſhall conſiſt of one chief judge, and two aſſiſtant judges, any two of whom ſhall be a quorum, any one of the ſaid judges, in the abſence of the others, ſhall have power to open and adjourn ſaid court, until a quorum be convened, and if neither of ſaid judges ſhall be preſent, the ſheriff of the ſame county, ſhall have power to adjourn ſaid court, from day to day, till one of the judges ſhall be preſent—which courts, within their reſpective counties, ſhall have cognizance of all criminal matters, of every name and nature (except ſuch as are made cognizable only in the ſupreme court, or before juſtices of the peace), and award ſuch ſentence as to law and juſtice appertains. And ſhall alſo have original juriſdiction, excluſively of the ſupreme court of judicature, of all actions and cauſes of actions of a civil nature, (except ſuch as are made cognizable ſolely before the ſupreme court of judicature, or juſtices of the Peace), and ſhall render judgment, and award execution thereon.

County courts conſtituted,

to conſiſt of one chief judge and two aſſiſtant Judges, two to make a quorum.

Sheriff's power to adjourn.

County court's juriſdiction in criminal matters.

SEC. 2. *Provided always, and it is hereby further enacted*, That in all criminal proſecutions originally commenced, heard and tried, before ſaid court, the party aggrieved

at the judgment, or ſentence given, or rendered by ſaid court, may appeal therefrom to the next ſtated, or adjourned ſupreme court, to be holden in the county where ſaid cauſe was tried, there to be finally determined. The appellant during the ſeſſion of ſaid court entering into a recognizance before ſaid court, to the treaſurer of the county, where the offence is charged to have been committed, (if the proſecution be commenced on the complaint of a county, or town informing officer, if otherwiſe to the proſecutor) with ſufficient ſureties, in ſuch ſum as the court ſhall direct; conditioned that he, ſhe, or they ſhall perſonally appear before ſaid ſupreme court, and there proſecute the appeal ſo taken to effect, and abide the order, or ſentence of the court thereon, and in the mean time to be of good behavior. And the party ſo appealing ſhall remain in the cuſtody of an officer until he, ſhe or they (as the caſe may be) ſhall have given ſuch ſecurity.

Appeals therefrom in criminal matters.

SEC. 3. *Provided alſo, and it is hereby further enacted*, That in all civil cauſes, originally commenced before the county court, either party ſhall have liberty to appeal from the judgment of ſaid court, unto the firſt ſtated ſeſſion of the ſupreme court of judicature, then next to be holden within and for the ſame county, or once and no more to review his cauſe at the next ſtated ſeſſion of the ſame county court. And either party ſhall have liberty to review his cauſe at the next ſtated or adjourned ſeſſion of the ſupreme court in the ſame county—And the party claiming an appeal or review in either of the caſes before mentioned, be-

Appeal in civil matters.

Review in civil matters.

fore his appeal or review be allowed, ſhall during the ſeſſion of ſaid court, give ſufficient ſecurity to the adverſe party, by entering into a recognizance, in ſuch ſum as the court ſhall direct, or as may be agreed by the parties, or their attornies, conditioned, *that he, ſhe, or they* (as the caſe may be) *ſhall proſecute the ſame to effect, and anſwer and pay all intervening damages, occaſioned to the appellee or reviewee, by his, her, or their being delayed, with additional coſt, in caſe the judgment be affirmed*—and execution ſhall be ſtayed, until after the trial had upon the appeal, or review, and the party appealing any cauſe ſhall produce and enter in the court, in which trial on the ſaid appeal is to be had, atteſted copies, of all the files and records, and the originals of all written inſtruments, and depoſitions, which ſhall have been uſed in ſuch cauſe, and lodged with the clerk, which originals ſhall be ſealed under cover and certified by the clerk of the court.

Condition of recognizance.

Provided alſo, That when any perſon recovering in any action ſhall appeal, or review, and on ſuch appeal, or review, ſhall recover no larger ſum in debt or damages than on the former trial, he ſhall recover no additional coſt.

Appellant recovering no larger ſum than on the former trial, to have no additional coſt.

Provided nevertheleſs, That no appeal, or review ſhall be allowed, in either of the courts before mentioned, when the judgment was rendered upon default; nor when judgment ſhall have been given in any cauſe twice for the ſame party; nor when either party ſhall have waved his appeal, or review, by entry made for that purpoſe.

Appeal not granted in caſes of default.

Provided alſo, That no appeal ſhall be allowed, from the county to the ſupreme court, in any action brought on bond, conditioned, only for the payment of a ſpecific ſum of money, or on any bill, note, or liquidated account, unleſs by ſpecial permiſſion of the judges of the county court, upon conſideration of the equity of the appellant's cauſe.

Nor on bond, bill, or liquidated account unleſs by ſpecial permiſſion of the judges.

And provided alſo, That no appeal or review ſhall be allowed, on any ſuit that may be brought againſt a ſheriff, high-bailiff, or conſtable, for not executing, or duly returning a writ of execution, to him delivered to ſerve, in caſes where a receipt was given by, or demanded of ſuch officer, at the time of the delivery thereof; nor on any ſuit that may be brought by a ſheriff, high bailiff, or conſtable, on any receipt, or writing obligatory, executed for goods, or chattels, ſeized or taken by virtue of any writ of execution, or on *meſne proceſs*, in which receipt or writing, the party executing the ſame, promiſed to re-deliver ſuch goods or chattels, and has failed of performing accordingly.

No appeal or review granted on ſuits againſt ſheriffs, high-bailiffs, or conſtables; or on ſuits brought by them on receipt for property taken on execution;

And provided alſo, That no appeal or review ſhall be allowed on any ſuit, that may be brought by a ſheriff, or high-bailiff, againſt his deputy, or ſureties, on any bond executed to the ſheriff, to indemnify him againſt any act, default or neglect of his deputy.

or on ſuits againſt deputy ſheriff & his ſureties brought by the ſheriff.

SEC. 4. *And it is hereby further enacted*, That when any perſon ſhall appeal from the judgment of any county court, as before mentioned, and ſhall neglect to enter,

Appellant neglecting to

enter his appeal, the former judgment to be affirmde, with additional coſt, at 12 per cent. intereſt.

and proſecute his appeal to effect, in manner as is before provided, the appellee in ſuch caſe, may enter his complaint in the court to which ſuch appeal was taken, and producing atteſted copies of the judgment, and evidence neceſſary for that purpoſe, the ſaid court ſhall affirm the original judgment, with additional coſts, and allow to the appellee, intereſt, on the debt or damages, ſo by him recovered, as increaſe of damages, occaſioned by the appellant's delay, at the rate of twelve *per centum per annum*.

County courts to affirm judgments of juſtices of the peace in certain caſes.

SEC. 5. *And it is hereby further enacted*, That when any perſon ſhall appeal from the judgment of any juſtice of the peace, and ſhall neglect to enter and proſecute his appeal, the appellee ſhall proceed in the ſame manner, and the county court ſhall have the ſame power to affirm, and enter up judgment, as is before provided in this act.

Supreme court of judicature conſtituted; to conſiſt of one chief & two aſſiſtant judges;

either may adjourn in the abſence of the other;

in their abſence the ſheriff may adjourn the court.

SEC. 6. *And it is hereby further enacted*, That there ſhall be, and hereby is conſtituted a ſupreme court of judicature, within and for this ſtate, to be holden at the reſpective times and places by law appointed for that purpoſe, which ſhall conſiſt of one chief judge, and two aſſiſtant judges, any two of whom ſhall be a quorum, and any one of ſaid judges, in the abſence of the other, ſhall have power to open and adjourn ſaid court, from day to day, until a quorum ſhall be convened, or to the next ſtated ſeſſion of ſaid court, at his diſcretion; and if neither of ſaid judges ſhall be preſent, the ſheriff of the county ſhall have power, to open and adjourn ſaid court, from day to day, until one of the judges ſhall be preſent; and if neither of the judges ſhall be able to attend at

the commencement of a ſeſſion, the ſheriff of the county by virtue of a written order, from one or more of the judges, to him directed, ſhall have power to adjourn ſaid court, to the next ſtated ſeſſion, or to ſuch day antecedent to ſuch ſeſſion, as in the ſaid order ſhall be appointed; and all appeals, proceſſes, writs and recognizances, made returnable to ſaid court, ſhall by the clerk be received on file, and continued of courſe, until the time to which the ſaid court is adjourned. And the ſaid court ſhall have original and excluſive juriſdiction, of all ſuch crimes and miſdemeanors, as are enumerated, and deſcribed in an act, entitled, *An act for the puniſhment of certain capital and other high crimes and miſdemeanors*; and alſo of all other crimes and miſdemeanors, where a fine or penalty ſhall accrue to the ſtate, or where the puniſhment extends by law, to the loſs of life, limb, or to diſfranchiſement, and alſo of all civil cauſes, and actions, wherein the ſtate is a party; and alſo appellate juriſdiction from the county courts, of all cauſes both civil and criminal, appealable to ſaid court. And ſaid court is hereby authoriſed and empowered to render judgment and give ſentence thereon, with coſts, and award execution accordingly.

Cauſes &c. continued of courſe.

Original & excluſive juriſdiction of ſupreme court in criminal matters.

juriſdiction in civil matters.

SEC. 7. *Provided always, and it is hereby further enacted*, That if two of the judges in the trial of any cauſe, ſhall be intereſted, or ſhall have been of counſel for either party in ſaid cauſe, in every ſuch caſe, one judge ſhall hold the court for the trial of ſuch cauſe.

Where two judges are intereſted one judge to hold the court.

SEC. 8. *And it is hereby further enacted*, That the ſupreme court of judicature, ſhall have power to iſſue writs of mandamus, warranted by the principles and uſages of law,

Supreme court may iſſue writs of mandamus.

to any courts appointed, or perſons holding office, and ſhall have power to examine, and reverſe, or affirm, any judgment in civil actions rendered in any county court, upon a writ of error; which writ of error any judge of the ſupreme court ſhall have power to allow and ſign; and on allowance of ſuch writ of error as aforeſaid, ſhall take good and ſufficient ſecurity, that the plaintiff in error, ſhall proſecute his writ to effect, and anſwer all damages, and coſts, if he fail to make his plea good; and if on ſuch writ of error, the former judgment ſhall be affirmed, the court ſhall adjudge to the defendant, or defendants in error, juſt damages for the delay, occaſioned by ſuch writ, and ſingle, or double coſts at their diſcretion.

Writs of error allowed, by whom ſigned.

Plaintiff to give ſecurity.

Proceedings where former judgment is affirmed.

SEC. 9. *And it is hereby further enacted*, That when a judgment ſhall be reverſed in the ſupreme court, the court ſhall proceed to render ſuch judgment, as the county court ſhould, or of right ought to have rendered, and award execution thereon accordingly.

Proceedings where former judgment is reverſed.

SEC. 10. *And it is hereby further enacted*, That when any perſon ſhall pray out a writ of error, in due form of law, and procure the ſame to be regularly ſerved, and ſhall fail to enter and proſecute his ſaid writ to effect, or ſhall become non-ſuit, the defendant or defendants in error, may enter his, her, or their complaint, in the court to which ſuch writ was made returnable, praying for his juſt damages and legal coſts; and ſuch court ſhall award to the defendant or defendants in error, twelve per cent. intereſt, on the original judgment, as damages and his coſt, and iſſue execution accordingly.

Proceedings when the plaintiff in error is non-ſuit.

SEC. 11. *And it is hereby further enacted*, That in caſes, proper for iſſuing an *audita querela*, the ſame, if judgment was render-

Audita querela how, & by whom granted.

ed in the ſupreme court of judicature, ſhall be allowed and ſigned by a judge of the ſame court; but if the judgment was rendered in the county court, the ſaid writ ſhall be allowed, and ſigned, by two judges of the court laſt mentioned, and ſufficient ſecurity ſhall be taken by the judge, or one of the judges, allowing the writ, for the re-delivery of the body or eſtate (as the caſe may be) to the cuſtody of the officer, having the ſame in poſſeſſion, if the ſame ſhall be awarded, and pay all intervening damages, and in default thereof, the payment of the debt, damages and coſt; or in caſes when neither body, or eſtate, ſhall be taken in execution, the recognizance ſhall be conditioned for the payment of intervening damages and coſts, if the complainant ſhall fail to proſecute to effect.

Bonds taken for re-delivery of the body or eſtate.

SEC. 12. *And it is hereby further enacted*, That on any judgment rendered by a juſtice of the peace, either by confeſſion, or otherwiſe, the writ of *audita querela* ſhall be allowed, under the aforeſaid regulations, by any two judges of the county court, of the county in which judgment was rendered, and the county courts reſpectively, ſhall have juriſdiction thereof, as in caſes brought before them by original writ.

County court to have juriſdiction of *audita querela* on judgment rendered by juſtices of the peace.

SEC. 13. *And it is hereby further enacted*, That the ſeveral county courts and the ſupreme court of judicature, ſhall have power to iſſue writs of *ſcire facias*, *habeas corpus*, and all other writs, not ſpecially provided for by ſtatute, which may be neceſſary for the exerciſe of their reſpective juriſdictions, and agreeably to the principles and uſages of law.

Writs of *ſcire facias*, *habeas corpus*, and other writs, not ſpecially provided, by whom to be iſſued.

SEC. 14. *And it is hereby further enacted*, That either of the judges of the ſupreme

Habeas corpus may be granted by one judge in vacation.

court of judicature, in the receſs of the court, ſhall have power to grant writs of *habeas corpus*, for the purpoſe of an enquiry into the cauſe of commitment, provided that ſuch writs of *habeas corpus*, ſhall in no inſtance extend to priſoners in gaol, unleſs when they are committed for trial before ſome court of the ſtate, or are neceſſary to be brought into court, to teſtify, or to be ſurrendered in diſcharge of bail. And when a writ of *habeas corpus* ſhall be iſſued for the purpoſe of bringing into court the principal, to be ſurrendered, in diſcharge of his bail, and ſuch principal ſhall be confined in any gaol, in this ſtate, out of the county in which ſuch principal is required to be ſurrendered, the writ may run into any county in this ſtate, and be there executed, by any officer to whom it ſhall be directed, and the principal, after being ſurrendered in court, and his bail diſcharged, ſhall by the officer executing ſuch writ, be remanded to the gaol from which he was taken by virtue of an order of the court for the purpoſe, an atteſted copy of which lodged with the gaoler, ſhall be a ſufficient authority, for him to detain ſuch principal, in his cuſtody, in the ſame manner as though he had been committed on *meſne proceſs*, and ſuch removal ſhall not be deemed, or holden an eſcape; and the creditor ſhall have the ſame time allowed him to charge ſuch principal in execution, on the original judgment, as in other caſes of a like nature.—And the party praying out ſuch writ, ſhall pay to the officer executing the ſame ſuch reaſonable ſum for his ſervices, as ſhall be allowed by the judges of the courts reſpectively.

Reſtrictions.

Habeas corpus to bring in the body of the principal in diſcharge of bail.

May run into any county.

Special court for the trial of criminal cauſes, how called.

SEC. 15. *And it is hereby further enacted*, That the chief judge of the ſupreme court, ſhall have power to call a ſpecial court to be holden for the trial of criminal cauſes, at any time between the regular ſtated ſeſſions of ſaid court, at his diſcretion.

County and ſupreme courts may have adjourned ſeſſions.

SEC. 16. *And it is hereby further enacted*, That the judges of the county and ſupreme courts, when the exigency of the buſineſs ſhall require, ſhall have power to adjourn their reſpective courts, (within the county in which they are uſually holden), to ſuch day, antecedent to the next regular ſeſſion of the ſame court, as the ſaid courts reſpectively ſhall think proper.

May appoint clerks.

SEC. 17. *And it is hereby further enacted*, That the ſupreme court, and ſeveral county courts, reſpectively, ſhall have power from time to time, to appoint a clerk to officiate in their reſpective courts, under ſuch regulations and reſtrictions, as are or may be provided by law, who ſhall be duly ſworn to the faithful diſcharge of their duty.

Clerks to be ſworn.

May iſſue writs of ſubpoena for witneſſes—

SEC. 18. *And it is hereby further enacted*, That the clerks of the ſeveral courts in this ſtate, be and they are hereby empowered reſpectively, to grant writs of ſubpoena for witneſſes, in all cauſes pending in their reſpective courts, which writs ſhall be made out in due form of law; and alſo to take and enter all recognizances proper to be taken in court, and to certify copies thereof in due form of law.

to take recognizances and certify copies.

Supreme & county courts to make rules.

SEC. 19. *And it is hereby further enacted*, That the ſupreme and county courts, reſpectively, ſhall have power to make all neceſſary rules, for the orderly practice in their ſeveral courts, provided ſuch rules be not repugnant to the conſtitution, or laws of this ſtate.

Judges not to ſit in any cauſe in which they have been of council.

SEC. 20. *And it is hereby further enacted*, That no judge of the county court, or ſupreme court of judicature ſhall ſit in the trial of any cauſe in which he ſhall have appeared as an attorney, or ſhall have been of council, or is concerned as a party, nor ſhall he be admitted to appear or defend as an attorney, or be of council in any cauſe in which he has acted as a judge.

May admit attornies in their reſpective courts.

SEC. 21. *And it is hereby further enacted*, That the ſupreme and county courts ſhall have power to admit attornies to practice in ſaid courts.

Attornies how to be admitted.

SEC. 22. *And it is hereby further enacted*, That when any perſon ſhall apply to either of the county courts, to be admitted as an attorney, the court to which application is made, ſhall aſſign a time, when the judges, aſſiſted by the attornies of the bar, ſhall hear and examine the perſon ſo applying, and if upon examination, he ſhall be found by ſuch court, to have a competent knowledge of law, and be of good moral character, he ſhall, after taking before the court, ſo examining him, the oath preſcribed by law, be admitted to all the privileges of an attorney at law in this ſtate. And the clerk of ſuch court ſhall make an entry on record of his admiſſion, and of his being ſworn as aforeſaid.

To be of good moral character.

Proviſo.

Provided always, That the ſupreme court of judicature in this ſtate, ſhall have the excluſive right of admitting attornies to plead at their bar, and no attorney who ſhall be admitted to plead at the county courts as aforeſaid, (except the ſeveral ſtate's attornies), ſhall thereby, be authoriſed, or empowed to plead in the ſupreme court, without permiſſion or licence firſt obtained from ſaid court.

Plaintiffs or defendants may appoint attornies on special occasions.

SEC. 23. *And it is hereby further enacted*, That when a plaintiff or defendant, in any cauſe pending before a county court, or the ſupreme court of judicature, ſhall empower a perſon to appear and proſecute or defend, the ſame, ſuch perſon ſo empowered, having filed his power with the clerk of ſaid court, ſhall be heard therein, and have the ſame power of conducting ſuch cauſe, as though he were duly admitted, and ſworn, as a practiſing attorney of ſaid court, and ſhall be ſubject to the ſame rules.

Proceſs in civil cauſes to be by ſummon or attachment

SEC. 24. *And it is hereby further enacted*, That the ordinary mode of proceſs, in civil cauſes, in the ſeveral county courts, and ſupreme court of judicature, within this ſtate, ſhall be by writ of ſummons or attachment, and according to the form preſcribed by law.

Returnable to county courts, to be ſigned by a judge, clerk or juſtice of the county.

And every ſuch writ, or other proceſs, returnable to any county court, within this ſtate, ſhall be ſigned by a judge, or clerk of the county court, in which the cauſe is to be tried, or by a juſtice of the peace of the ſame county; and every writ or proceſs, originally returnable to the ſupreme court ſhall be ſigned by a judge or clerk of the ſame.

Returnable to the ſupreme court, to be ſigned by a judge or clerk of the ſame.

And all writs and proceſſes ſigned by a judge or clerk of the county, or ſupreme court, as aforeſaid, as well original as judicial, ſhall run into any county, or place, within this ſtate, and be there executed by any officer to whom directed.

To run into any county.

And every original writ or other proceſs, returnable to either of ſaid courts, ſhall mention the court, time and place of appearance, and contain a declaration, ſetting forth the cauſe of action, according to due form of law.

To mention the court, time and place of ſitting, and contain a declaration.

And every writ and proceſs iſſued as aforeſaid, ſhall be directed to the ſheriff, his deputy, or ſome conſtable of the town where the ſervice is

To whom directed.

to be made, except where both ſheriff and conſtable are parties, or intereſted, in which caſe the writ or proceſs may be directed to, and the ſervice made, by the high-bailiff, or any diſintereſted conſtable within the county, who ſhall be therein named—And in caſe no ſuch ſheriff, deputy ſheriff or other officer, as aforeſaid can be ſeaſonably had, the writ or proceſs may by the authority iſſuing the ſame, be directed to an indifferent perſon being named—And ſuch writs and proceſſes ſhall be ſerved, in all caſes, twelve days, at leaſt, before the ſeſſion of the court, to which they are returnable, including the day of ſervice. But no writ in any civil cauſe, ſhall be made returnable to any adjourned county court. And every writ or proceſs, iſſued againſt any ſheriff, deputy ſheriff, high-bailiff, or conſtable, for any non-feaſance, mal-feaſance, or mis-feaſance, in their reſpective offices, ſhall be ſerved at leaſt eighteen days before the ſeſſion of the court, to which the ſame is made returnable—And every writ or proceſs iſſued againſt any county, town, diſtrict, ſociety, truſtees, proprietors, or other community or corporation, ſhall be ſerved at leaſt thirty days before the ſeſſion of the court, to which the ſame is made returnable.

When to be ſerved.

SEC. 25. *And it is hereby further enacted*, That writs of attachment may iſſue againſt the goods, chattels or eſtate, of any perſon or perſons, and for want thereof againſt their bodies.

Attachments may iſſue againſt the goods, chattels, or eſtate, or for want thereof againſt the body.

SEC. 26. *And it is hereby further enacted*, That all writs of ſummons ſhall be ſerved on the defendant, or defendants, by delivering him, her, or them a true and atteſted copy of ſaid writ, with the officer's return there-

All ſummonſes to be

on, or by leaving ſuch copy at the houſe of his, her, or their uſual abode, with ſome perſon of ſufficient diſcretion, then reſident therein, and if there be no ſuch perſon, with whom ſuch officer can leave ſuch copy, he ſhall then lodge the ſame at the houſe of his, her or their, then uſual abode, in ſuch ſituation as the defendant, or defendants, will moſt probably receive it; and the manner of ſuch ſervice ſhall be particularly expreſſed, in the return made by ſuch officer. And that when the goods or chattels, of any perſon or perſons, ſhall be attached at the ſuit of another, a copy of ſaid attachment, and a liſt of the articles attached, atteſted by the officer ſerving the ſame, ſhall be delivered to the party whoſe goods or chattels are ſo attached, or left at the houſe of his, her, or their then uſual abode, as is above directed in the ſervice of ſummons; and if the perſon, or perſons, whoſe goods or chattels are attached, be not an inhabitant or inhabitants of this ſtate, then ſuch copy ſhall be left with his, her, or their agent, or attorney, if any be known, and for want thereof, at the place where ſuch goods or chattels were attached; and the ſervice thereof ſhall be certified by a ſworn officer, who executed the attachment, or by the affidavit of ſome diſintereſted perſon, who delivered the ſame. And when the real eſtate of any perſon, or perſons, ſhall be attached, a true and atteſted copy of ſaid attachment, together with the deſcription of the eſtate attached, ſhall be by the officer, ſerving the ſame, delivered to the party whoſe eſtate is ſo attached, or left at his, her, or their dwelling houſe, or laſt and uſual place of abode; and the officer making ſuch ſervice, ſhall alſo leave a true and atteſted copy of ſaid attachment, together with a deſcription of the eſtate, ſo attached, with the town clerk of the

ſerved by copy.

Attachments on goods and chattels how ſerved.

When real eſtate is attached, how ſerved.

town, in which ſuch eſtate lies, or in the county clerk's office, of the ſame county, in caſe there ſhall be no ſuch town clerk. And if the party whoſe eſtate is attached, do not reſide within this ſtate, then ſuch copy ſhall be delivered to his, her, or their tenant, agent or attorney, if any be known, and if no ſuch tenant agent or attorney be known, then a copy of ſuch writ, with the officer's return thereon lodged in the town, or county clerk's office, in which any deed or conveyance of ſuch eſtate ought by law to be recorded ſhall be deemed ſufficient ſervice.

Writs of error *ſcire facias* and review how to be ſerved

SEC. 27. *And it is hereby further enacted*, That all writs of *error*, writs of *ſcire facias*, writs of *review*, and other writs, the ſervice of which is not particularly directed by ſtatute, where the defendant, reſpondent, or party, on whom the ſervice is to be made, is an inhabitant, or occaſional reſident in this ſtate, ſhall be ſerved in the ſame manner as is before provided in this act, for the ſervice of writs of ſummons, but where the defendant, reſpondent, or party, on whom the ſervice is to be made, is not an inhabitant of this ſtate, the ſervice ſhall be made on his, her, or their, known agent, or attorney, or for want thereof, on the attorney in the original action; and when no agent or attorney as aforeſaid is known, the ſervice ſhall be made, by leaving a true and atteſted copy of ſuch writ, with the clerk of the court to which ſuch writ is made returnable, at leaſt twelve days before the ſeſſion of ſaid court, and ſaid court ſhall continue ſaid action, one, or more terms, at the diſcretion of ſaid court.

SEC. 28. *And it is hereby further enacted*, That when the body of any defendant, or defendants, ſhall be taken on *meſne proceſs*, in any civil action, or ſuit, it ſhall be the duty of the

officer ſerving ſuch proceſs, to deliver him, her, or them, an atteſted copy thereof, if required, and ſuch perſon or perſons ſo taken, ſhall be holden and committed to gaol, unleſs he, ſhe, or they, ſhall procure ſome perſon or perſons to become ſurety, or ſureties, to the ſatisfaction of the officer ſerving the ſame, or the creditor, or creditors, in ſuch proceſs, by ſuch ſurety, or ſureties, endorſing, his, her, or their names, or ſignatures, on the back of ſaid writ as bail thereon.

Writ of attachment when the body is taken, how to be ſerved; Defendant may procure bail, who ſhall ſign his name on the back of the writ.

SEC. 29. *And it is hereby further enacted*, That when any perſon, or perſons, ſhall ſo endorſe his, her, or their names, or ſignatures, as bail as aforeſaid, ſuch perſon or perſons ſhall be holden to ſatisfy the judgment, which ſhall be finally rendered thereon, in caſe the return *non eſt inventus*, be legally made on the execution, iſſued on ſuch judgment, unleſs juſt cauſe ſhall be ſhewn to the contrary, at the return of a writ of *ſcire facias*, to be iſſued againſt ſuch ſurety, or ſureties, by the creditor, or creditors, within one year from the time of rendering the final judgment as aforeſaid, or unleſs the ſurety, or ſureties, ſhall furrender the body of the principal, into court before entering the judgment, upon the *ſcire facias*, and ſhall pay the coſts upon the *ſcire facias*, and move to be diſcharged, in which caſe, the court ſhall direct an officer, to receive the principal into cuſtody, that his body may be taken in execution, and it ſhall be lawful for ſuch officer, to detain the principal, ſo long as the court ſhall direct, not exceeding twenty days, from the riſing of the court, and in caſe a writ of *ſcire facias* againſt the bail, iſſued within one year from the time of rendering the final judgment, ſhall be returned *ſcire feci*, and no juſt cauſe be ſhown to the contrary, or the principal ſurrendered as aforeſaid, judgment ſhall be rendered for

Bail to be holden to reſpond the judgment unleſs the principal be furrendered in court.

Scire facias to be iſſued againſt bail, within one year after final judgment, or bail diſcharged.

Officer to detain the principal not exceeding 20 days, from the riſing of the court.

the original debt, or damage, and coſt, with the additional coſts of ſuit, and execution ſhall iſſue accordingly. And no ſuit ſhall be proſecuted againſt any officer, or other perſon taking bail in manner aforeſaid, when the bail ſhall be ſufficient. And every ſurety of whom ſuch recovery is had, or who ſhall otherwiſe ſuſtain damages, by being bail, ſhall have right to recover all ſuch damages, he, ſhe, or they, ſhall ſuſtain againſt the principal.

Proviſo, Bail may deliver the principal up in court, and be diſcharged.

Provided, that nothing herein contained, ſhall be conſtrued to prevent the bail from delivering the principal into court before, or during the term in which the final judgment ſhall be entered, in diſcharge of him, her, or themſelves.

Scire facias abated, or judgment on demurrer new *ſcire facias*, may iſſue in ſix months.

SEC. 30. *Provided alſo, and it is hereby further enacted*, That if any writ of *ſcire facias* be iſſued as aforeſaid, ſhall be abated, or judgment ſhall be rendered thereon, in favor of the defendant, or defendants, on demurrer, the plaintiff, or plaintiffs, ſhall have liberty to bring his, her, or their action anew, or ſue out another *ſcire facias*, at any time within ſix months from the rendition of ſuch judgment as aforeſaid, and not after.

Scire facias may iſſue as attachments.

SEC. 31. *Provided alſo, and it is hereby further enacted*, That writs of *ſcire facias* againſt bail, may iſſue as attachments, againſt the goods, chattels, or eſtate, of ſuch bail, and for want thereof againſt the body, or bodies, of ſuch bail, as in original proceſs.

SEC. 32. *And it is hereby further enacted*, That when ſuch ſurety or ſureties ſhall have endorſed his, her, or their names as bail, as aforeſaid, the officer ſerving ſaid writ, ſhall deliver to ſuch ſurety or ſureties a bail-piece in the form following, namely,

"STATE OF VERMONT.

County, ss. the day of A. D.

A. B. of in the county of is bailed by G. D. of in the county of upon a writ of attachment, to the value of dollars, returnable to the court to be holden at in and for the county of on the day of next, at the suit of E. F. demanding dollars, [pounds &c.] damages, he (she, or they,) having endorsed the original writ, as by law directed. Bail-piece, form of.

Attest, *G. H.* Sheriff, (&c.)"

And when the surety or sureties, shall have occasion to take the body of the principal, to surrender him in court in discharge of his, her, or their bail, either on the original process, or upon *scire facias*, or to secure him in person in vacation, until the session of the court, in which he may be surrendered as aforesaid, such bail-piece shall be sufficient evidence to entitle such surety, or sureties, to a warrant, from any judge or justice of the peace in the county, in which such principal shall reside, or be found, to take the body of such principal, and such judge, and justices respectively, on application for that purpose, shall have power to issue a warrant agreeable to the form prescribed by law, directed to the sheriff, or his deputy, commanding him to assist the said surety, or sureties, in apprehending the body of such principal; and it shall be lawful at all times for such surety or sureties, to commit the principal to gaol, when they shall think there is danger that he will abscond, be out of the way, or lurk in any other county; and it is hereby made the duty of such officer, to commit such principal so taken to the keeper of the gaol, Bail may have warrant to take the body of the principal.

either in the county in which he was arreſted, on the original proceſs, or in the county in which ſaid proceſs is pending, or was made returnable agreeable to the direction in his warrant, and the keeper of the gaol is hereby directed to receive ſuch principal, and him ſafely keep, until he ſhall procure ſufficient bail to the ſatisfaction of the ſheriff to whom the warrant ſhall be directed, or to the plaintiff in the original proceſs, if judgment ſhall not have been rendered on ſuch proceſs, or until the principal be removed or diſcharged by due courſe of law; and a copy of ſuch warrant, atteſted by the officer executing the ſame, ſhall be a ſufficient authority to ſuch gaoler.

Real and perſonal eſtate attached, how long to be holden after final judgment.

SEC. 33. *And it is hereby further enacted*, That when the goods or chattels of any perſon, ſhall be taken upon *meſne proceſs*, the ſame ſhall be holden thirty days from the time final judgment ſhall be rendered in ſaid ſuit, and unleſs the plaintiff in ſaid ſuit, ſhall within the term of thirty days, from the time of rendering ſuch judgment, as aforeſaid, take ſaid property in execution, the ſame ſhall be diſcharged from ſaid proceſs, and be no further liable to anſwer ſaid judgment, than though the ſame had not been attached; and in caſe real eſtate be attached on ſuch proceſs, the ſame ſhall be holden five calendar months, after the rendition of ſuch judgment, and no longer.

Bail on original attachment, how holden.

SEC. 34. *And it is hereby further enacted*, That if the body of any perſon ſhall be taken upon *meſne proceſs*, and the perſon ſo taken ſhall procure bail, as herein before directed, upon ſaid proceſs, that the ſaid bail ſhall not in any way be holden to anſwer any judgment that may be rendered on ſuch proceſs, unleſs the creditor ſhall within ſixty days from the rendition of final judgment, on ſaid proceſs, cauſe execution iſſuing thereon, to be lev-

ied on the goods, chattels or body of the defendant, or defendants, or cauſe a return of *non eſt inventus*, to be regularly made thereon, which execution ſhall be taken out within thirty days from the time final judgment ſhall be rendered, and put into the hands of ſome officer proper to levy and ſerve the ſame.

SEC. 35. *And it is hereby further enacted*, That when any writ of attachment, regularly iſſued in any action, ſhall be delivered to any proper officer to ſerve, and the ſaid officer ſhall atrach the body of the defendant, or defendants, in ſaid action, and the defendant, or defendants, ſhall not diſcharge his or their bodies, by procuring bail, or expoſing ſufficient property to ſecure ſaid officer, he ſhall have full power and authority, to commit the ſaid defendant, or defendants, or debtors, to the gaol of the county in which he ſhall be taken, or in caſe there be no legal gaol in the county, then to the next county, where there is a legal gaol, and the keeper of the ſaid gaol ſhall receive ſaid debtor, and the ſaid officer ſhall deliver to the keeper of ſuch gaol, an atteſted copy of ſuch attachment, with his return of commitment thereon, and the keeper of ſaid gaol, ſhall, in ſuch caſes, be liable to anſwer for the ſafe keeping of ſaid priſoner, or priſoners, in the ſame manner as though he had been legally committed on execution.

Defendant not procuring bail to be committed.

SEC. 36. *And it is hereby further enacted*, That when any perſon ſhall be attached, upon *meſne proceſs*, and ſhall be committed agreeable to this act, and ſhall be in gaol at the term final judgment ſhall be rendered againſt him, he ſhall be diſcharged from confinement, unleſs the plaintiff in ſaid action within fifteen days after the rendering of final judgment, as aforeſaid, ſhall charge him with execution.

How long to be holden after final judgment.

Sheriffs may commit without their counties in certain cases.

SEC. 37. *And it is hereby further enacted,* That when any warrant of commitment, or any execution, ſhall iſſue on any judgment, which ſhall be duly rendered by any of the courts of juſtice in this ſtate, againſt any perſon or perſons, who ſhall reſide in either of the counties, in which there ſhall not be a legal gaol, it ſhall be the duty of the ſaid courts, in iſſuing ſaid warrant, or writ of execution, upon any judgment rendered as aforeſaid, to command the ſheriff, or his deputy, or conſtable, or other officer to whom ſaid warrant or writ of execution may be directed, to commit the perſon or perſons mentioned in ſuch warrant, or writ of execution, to any gaol in any of the counties in this ſtate, as ſhall in the judgment of ſaid court be conſidered the moſt convenient, and it ſhall be the duty of the keeper of the gaol in ſuch county, and in ſuch caſes to receive ſuch perſon, or perſons, and commit, or keep him, her or them within the ſaid gaol.

Sheriffs &c. may commit, without their counties, on *meſne proceſs*, or for rates in certain caſes.

SEC. 38. *And it is hereby further enacted,* That when any officer as aforeſaid, ſhall find it neceſſary on the ſervice of any attachment on *meſne proceſs* or warrant for the collection of rates, or taxes, to commit any perſon, or perſons, who reſide in either of the counties in which there ſhall not be a legal gaol, it ſhall be the duty of ſuch officer to commit the perſon, or perſons, againſt whom he ſhall have ſuch proceſs, or warrant, to ſome gaol, in one of the neareſt counties in this ſtate, in which there ſhall be a legal gaol, as ſhall in the judgment of ſuch officer, be moſt convenient, and it is hereby made the duty of the keeper of the gaol in ſuch county, to receive ſuch perſon, or perſons, into his cuſtody, and him, her, or them ſafely keep.

SEC. 39. *And it is hereby further enacted,* That when any perſon ſhall be committed to

prison, and confined for any bailable offence, triable before the supreme court of judicature, or either of the county courts in this state, any judge of the county court within the county where such person shall be committed, or confined, shall have power to bail the said prisoner, by taking a recognizance, with sufficient sureties, in such sum, as the said judge shall think proper, to the treasurer of the state or county, as the case may be, for his, or her appearance before the next stated, or adjourned supreme or county court, to be holden in the county where the trial is to be had, which recognizance so taken, shall be returned by said judge, to the clerk of said supreme or county court (as the case may be) on the first day of the term, to which said prisoner is bound to appear.

Persons committed for bailable offences how bailed.

SEC. 40. *And it is hereby further enacted*, That in all cases wherein persons shall be committed to gaol, under the directions of this act, and who shall escape therefrom, the county from which such prisoner was sent, shall be liable to pay all damages, and costs, to the person or persons, who shall be injured by such escape, as aforesaid.

Counties liable for all damages occasioned by escapes.

Provided always That when any action shall be brought against any county for an escape, as aforesaid, such county may on the trial of the cause, produce any evidence to show the circumstances, situation, and property of the prisoner, or prisoners, when such escape was made, and all the circumstances attending such escape; and the creditor or creditors shall recover no more than his reasonable and just damages, which such creditor or creditors, shall have sustained by reason of such escape, together with his cost; any thing in this act to the contrary notwithstanding.

Property and situation of the prisoner may be shown in mitigation of damages.

If a return of *non eſt inventus* be made on execution againſt ſheriff, or high bailiff, the creditor may have a writ of *ſcire facias* againſt their bondſmen.

SEC. 41. *And it is hereby further enacted*, That when any ſheriff, or high-bailiff hath been, or ſhall be ſued, for any neglect or unfaithfulneſs in his office, and duty, and judgment hath been, or ſhall be rendered againſt ſuch ſheriff, or high-bailiff, and the execution that hath iſſued or ſhall iſſue on ſuch judgment be returned *non eſt inventus*, that then and in every ſuch caſe, the perſon or perſons recovering ſuch judgment may, in his, her, or their own name and right, ſue out a writ of *ſcire facias*, againſt any or all of ſuch ſheriffs or high-bailiffs, bondſmen, or ſureties, returnable to the ſame court in which the judgment was had and rendered, againſt ſuch ſheriff or high-bailiff, and unleſs ſatisfactory cauſe can be ſhown to the contrary, ſuch judgment had and rendered againſt ſuch ſheriff, or high-bailiff, ſhall be affirmed againſt ſuch bondſmen, ſurety or ſureties, with legal intereſt, and additional coſt, and execution ſhall iſſue accordingly.

Proviſo.

Provided neverthelefs, That nothing herein contained ſhall be conſtrued to prevent ſuch bondſmen, ſurety, or ſureties, from taking all advantage on the *ſcire facias*, that might or could have been had, or taken, had debt been brought on the recognizance entered into by ſuch ſheriff, or high-bailiff, their ſurety or ſureties, for the faithful performance of their offices.

Copy of recogniz. ance good evidence againſt the bonds. men.

SEC. 42. *And it is hereby further enacted*, That a copy of ſuch recognizance, atteſted by the officer, having by law the cuſtody of the ſame, ſhall be good and ſufficient evidence of ſuch recognizance, againſt ſuch bondſmen, ſurety or ſureties.

Sureties allowed all advantages on a

SEC. 43. *And it is hereby further enacted*, That in all caſes in which judgment ſhall have been, or ſhall hereafter be rendered, againſt any ſheriff, or high-bailiff, by default, and *ſcire fa-*

tias shall have been, or shall hereafter be sued and prosecuted, on such judgment against such sheriff, or high-bailiff, surety, or sureties, such surety or sureties shall be allowed all the advantages on trial, upon such *scire facias*, which by law the principal might have had in the original action.

scire facias which the principal might have had on the original action.

SEC 44. *And it is hereby further enacted*, That when any person or persons, not being freeholders, in this state, or being freeholders, shall reside without the state, shall apply to any person having authority to issue writs, for any process whatever, to summon or attach any person or persons, to answer before any court within this state, there shall be sufficient security given to the defendant, or defendants, by way of recognizance, to the satisfaction of the authority signing such process, before the signing thereof, that the plaintiff or plaintiffs shall prosecute his, her, or their, writ to effect, and shall answer all damages if a judgment shall be rendered against him, her, or them. A minute of which recognizance, with the name of the surety or sureties, and the sum in which they are bound, shall be made upon the said writ, at the time of signing thereof, and signed by such authority, and if any writ be otherwise issued, the same on motion, shall be abated.

Persons not being freeholders or being freeholders, if they reside without the state to procure sufficient bonds in processes, &c.

SEC. 45. *And it is hereby further enacted*, That no writ of attachment shall be issued against any person, or persons, within this state, until the person, or persons, praying out such writ, shall have given sufficient security to the adverse party, by way of recognizance, to the satisfaction of the authority signing the same that the plaintiff, or plaintiffs, in such writ, shall prosecute his, her or their writ to effect, and answer all damages, if judgment shall be rendered against him, her or them; a

Bail to be entered before writs of attachment may issue.

minute of which recognizance, shall be signed as directed in the last preceding section of this act; and if any attachment shall otherwise issue, the same on motion shall be abated: and if the defendant shall, pending any suit, suggest to the court that the surety, or the sum of the recognizance is insufficient, to respond the costs, the court may, in their discretion, order bail to be put in sufficient for the purposes aforesaid, by such time as they shall direct, or that the plaintiff become nonsuit.

Courts may order bail pending suit, or non suit the party.

SEC. 46. *And it is hereby further enacted*, That when the goods or chattels of any defendant, or defendants, shall be attached on *mesne process*, returnable to any county court, or the supreme court of judicature, he, she, or they, shall have right to replevy the same, and any person authorized to issue attachments, may on application of such defendant, or defendants, issue a writ of replevin in form prescribed by law, directed to the sheriff of the county, or his deputy, in which service is to be made, and the sheriff or his deputy, to whom such writ of replevin is delivered, shall, before he serve the same, require the plaintiff, or plaintiffs, in such replevin, to execute a bond to the plaintiff or plaintiffs, in the original process, with sufficient surety or sureties, in such sum to the value of which attachment was directed to be made, which sum it shall be the duty of the authority issuing such writ of replevin, truly to insert. And the bond so taken shall be conditioned as follows, namely,

Goods & chattels attached on *mesne process* may be replevied.

Sheriff before he serves replevin to take bonds.

"Whereas A. B. hath caused the goods and chattels of C. D. viz. (one horse, &c. as the case may be) to be attached by a writ of attachment made returnable to the court next to be holden at in the county

Condition of bond.

of on the day of next, and by the precept of ſaid writ, the officer ſerving the ſame was commanded to attach to the value of dollars; and whereas the ſaid C. D. has prayed out a writ of replevin to replevy ſaid goods and chattels, directed to E. F. ſheriff of the county, or his deputy, now the condition of the above obligation is ſuch, that if the ſaid C. D. ſhall return the ſaid goods and chattels, to be replevied to him, by virtue of ſaid writ, ſo that they may be taken on an execution, which may be iſſued on a judgment to be recovered on the aforeſaid attachment, or ſhall otherwiſe diſcharge ſaid judgment, within ſixty days from the rendition of the ſame, then this obligation to be void, otherwiſe of force."

Writ and bond to be returned.

And ſuch bond being executed, the officer ſhall cauſe replevin to be made, and ſhall return ſaid writ, with his doings thereon, together with ſuch bond, to the clerk of the court, to which the original writ of attachment was made returnable, and ſuch clerk ſhall receive and keep the ſame on file—and if the plaintiff or plaintiffs in the original proceſs, ſhall recover judgment thereon, execution ſhall iſſue within thirty days, and if the defendant, or defendants in ſaid proceſs, ſhall not within the life of the execution return ſaid goods or chattels, ſo that the ſame may be taken in cuſtody or otherwiſe diſcharge the ſaid execution, then the clerk on requeſt ſhall deliver to the plaintiff or plaintiffs, the ſaid bond, who ſhall recover, in an action to be commenced thereon within one year, from the rendition of ſaid judgment, and not after, the debt and coſts in ſuch judgment with reaſonable damages for his, her, or their delay in the premiſes. And if the plaintiff or plain-

Clerk to deliver the bond to the original plaintiff if the execution is not diſcharged.

Officer liable for taking insufficient bond.

tiffs, ſhall not be able to recover ſatisfaction of the judgment, which may be rendered on the bond proſecuted as aforeſaid, through the inſufficiency of the principal, or ſurety or ſureties, in ſuch bond, then the officer taking ſuch bond, ſhall be liable in an action of the caſe, for juſt damages and coſts.

Officers taking insufficient bail on attachment, liable.

SEC. 47. *And it is hereby further enacted*, That when the high bailiff, ſheriff, or conſtable ſhall take inſufficient bail, on any writ of attachment, ſuch high bailiff, ſheriff and conſtable ſhall be anſwerable for the ſufficiency of the bail, by them reſpectively taken.

Actions where to be brought.

SEC. 48. *And it is hereby further enacted*, That when both plaintiff and defendant are inhabitants of this ſtate, the action or ſuit ſhall be brought in the county where one of the parties ſhall reſide, otherwiſe the writ on motion ſhall abate. And when the plaintiff is not an inhabitant of this ſtate, the ſuit ſhall be brought in the county where the defendant ſhall reſide,—and where the defendant is not an inhabitant of this ſtate, the ſuit may be brought in any county within the ſtate. And when neither plaintiff nor defendant are inhabitants of this ſtate, the ſuit may be brought in any county, and ſuſtained in any court, in this ſtate proper to try the ſame.

Provided always, That all actions of treſpaſs and ejectment, and for treſpaſſes committed on the freehold, ſhall be brought, heard and tried in the county in which the lands lie.

Writ not to be ſerved on ſunday except in certain caſes.

SEC. 49. *And it is hereby further enacted*, That no perſon between the hours of twelve in the night next preceding, and twelve in the night next ſucceeding the ſabbath, ſhall ſerve or execute any writ, proceſs, warrant, order, judgment or decree, (except on eſcape warrants, and warrants for apprehending the principal in favor of bail, and in caſes of treaſ-

on, felony or breach of the peace,) but the ſervice thereof ſhall be void, and the perſon ſerving the ſame ſhall be as liable to anſwer damages to the party aggrieved, as if he had done the ſame without any writ, proceſs, warrant, order, judgment or decree.

Writs pleas &c. to be in the Engliſh language.

SEC. 50. *And it is hereby further enacted*, That all writs, proceſſes, declarations, indictments, pleas, anſwers and entries, in the ſeveral courts of juſtice, within this ſtate, ſhall be in the Engliſh language, except technical terms.

Not to be abated for defect of form.

SEC. 51. *And it is hereby further enacted*, That no ſummons, writ, declaration, return, proceſs, judgment or other proceeding, in civil cauſes, in any of the courts in this ſtate, ſhall be abated, arreſted, quaſhed, or reverſed, for any defect, or want of form, but the ſaid courts reſpectively, ſhall proceed and give judgment, according to the right of the caſe, and matters in law as ſhall appear unto them, without regarding any imperfections, defects, or want of form in ſuch writ, declaration, or other pleading, return, proceſs, judgment, or courſe of proceeding whatſoever, except thoſe only in caſes of demurrer, which the party demurring ſhall ſpecially ſet down and expreſs, together with his demurrer as the cauſe thereof. And the ſaid courts reſpectively ſhall and may by virtue of this act, from time to time, amend all and every ſuch imperfections, defects and want of form, other than thoſe only which the party demurring, ſhall expreſs as aforeſaid, and may at any time permit either of the parties, to amend any defect in the proceſs or pleadings upon ſuch conditions, as the ſaid courts reſpectively ſhall in their diſcretion by their rules preſcribe.

Courts may amend any defect, or want of form in writs &c.

SEC. 52. *And it is hereby further enacted*, That if any perſon ſhall cauſe proceſs to be

Plaintiff being non-suit to pay costs.

ſerved on another, for any matter or cauſe, and diſcontinue his ſuit, or be non-ſuit therein, the court to which ſuch proceſs is made returnable, ſhall give judgment for the defendant, to recover reaſonable coſts.

Defendant not appearing after being notified to be defaulted.

SEC. 53. *And it is hereby further enacted,* That when the defendant in any ſuit, being duly ſerved with proceſs, and return thereof being duly made, ſhall not appear in perſon, or by attorney, his default ſhall be recorded and judgment entered againſt him thereon, unleſs on or before the third day incluſive after the firſt day of the ſitting of the court, he ſhall come into court and move for a trial, in which caſe he ſhall be admitted thereto, upon paying to the adverſe party legal coſt, and the plaintiff ſhall pay for entering the action anew.

Court may aſſeſs damages in caſes of default.

SEC. 54. *And it is hereby further enacted,* That when judgment ſhall be rendered by default, or on demurrer, in any court in this ſtate, the judges of ſuch court, ſhall have full power, by themſelves, by the jury in court, the report of the clerk, or the report on oath of one or more judicious perſon, or perſons, to be appointed as an inqueſt by the court, to aſcertain the ſum due and award execution thereon accordingly.

Defendant abſent from the ſtate at the time of ſervice, action to be continued.

SEC. 55. *And it is hereby further enacted,* That if the party, againſt whom any ſuit ſhall be brought, were abſent from the ſtate, at the time of commencing ſuch ſuit, and ſhall not return within the ſame, before the time of trial, the court in which ſuch ſuit is brought, ſhall continue the action to the next term of ſaid court (unleſs the plaintiff ſhall make it appear to the ſatisfaction of the court, that the defendant had notice of the ſervice of ſuch proceſs, a ſufficient time before the return thereof, to have appeared at ſaid court, and

have had a trial) and it is hereby made the duty of the plaintiff, to cauſe perſonal notice of ſuch ſuit and continuance to be given, to the defendant twenty days previous to the next term of ſaid court, and unleſs it ſhall appear to the court, that the defendant has been notified, the court ſhall further continue ſaid action, and order further notice to be given, by directing a publication thereof to be made, in ſome public newſpaper, at their diſcretion—and in ſuch caſe when judgment ſhall be entered upon default (except when ſuch perſonal notice as aforeſaid ſhall be proved) execution, or writ of ſeiſin, ſhall not iſſue, until the plaintiff, his agent, or attorney, ſhall have given bond by way of recognizance, with one or more ſufficient ſureties, to be taken by the clerk of the court in which judgment ſhall have been rendered in double the value of the eſtate or ſum of money recovered by ſuch judgment, to make reſtitution, refund and pay back ſuch ſum, or ſums, as ſhall be given in debt, or damages, or ſo much as ſhall be recovered by writ of review, which may be brought within three years next after entering the firſt judgment, if upon ſuch ſuit, the judgment ſhall be annulled, reverſed, or altered, and the ſecurity aforeſaid ſhall be no further anſwerable, than for the recovery, which ſhall be made upon ſuch ſuit, to be commenced within three years, as aforeſaid, and ſuch writ of review, ſhall be made returnable to the ſame court, in which judgment ſhall have been rendered, and ſecurity given as aforeſaid, and the party praying out ſuch writ, ſhall procure ſome ſufficient freeholder, of this ſtate, to the ſatisfaction of the authority ſigning the ſame, to be recognized thereon for coſts of proſecution in due form of law.

Proceedings on writs of review.

SEC. 56. *And it is hereby further enacted,* That when any party shall bring his writ of review, as before provided in this act, and enter the same in court, the cause shall be tried upon the original merits, or copies produced from the original files and records, in the same manner, as if no judgment had been had, or rendered thereon, and the former judgment may be affirmed, or reversed in whole, or in part, and greater, or less damages, or no damages may be given, or such sum as shall be just and equitable may be awarded to the reviewer, if it shall be found that the reviewee, has on the former judgment recovered, and collected, more than was his just due as the merits of the cause upon law and the evidence shall appear to require. And every judgment rendered upon a writ of review, the court shall have power to allow or deduct costs between the parties, as the equity of the case shall demand, and either party shall have liberty to appeal from the judgment of said court, to the supreme court of judicature, or review his cause in the same court, in the same manner, and under the same regulations as is before provided in this act.

Parties shall produce books and writings.

SEC. 57. *And it is hereby further enacted,* That the supreme court of judicature and county courts, shall have power in the trial of actions at law, on motion, and due notice thereof being given, to require the parties to produce books, or writings, in their possession or power, which contain evidence pertinent to the issue, or relative to the action, in cases, and under circumstances, where they might be compelled to produce the same by the ordinary rules of proceeding in chancery, and if a plaintiff fail to comply with such order, to produce books, or writings, it shall be lawful for the court, on motion, to give the like judg-

ment for the defendant as in caſe of non-ſuit; and if a defendant ſhall fail to comply with ſuch order, to produce books, or writings, it ſhall be lawful for the courts reſpectively, on motion as aforeſaid, to give judgment againſt him, her or them as in caſe of default.

SEC. 58, *And it is hereby further enacted*, That the clerks of the county courts, and of the ſupreme court of judicature, reſpectively, ſhall iſſue a venire, directed to the ſheriff of their reſpective counties, or his deputy, commanding him to ſummon fifteen judicious men, being freeholders, within ſaid county, to ſerve as petit jurors, in the court mentioned in ſaid venire, which jurors ſhall be ſummoned from ſuch towns, within the ſeveral counties, as ſhall be directed by the judges of the ſaid courts reſpectively, and in caſe there ſhall be a deficiency of names in the box in any ſuch town or towns, the ſheriff ſhall be directed in like manner, to draw and ſummon from any other town or towns, in the ſame county, a number equal to ſuch deficiency, and ſhall attend at ſuch time and place as ſhall be therein mentioned, which venire the clerks reſpectively ſhall ſeaſonably iſſue, and deliver, or cauſe to be delivered, to ſuch ſheriff or his deputy, and the ſaid jurors ſhall be ſummoned not leſs than ſeven, nor more than fifteen days, before the ſeſſion of the court, in which ſuch jurors ſhall be required to ſerve, and ſuch ſheriff or his deputy ſhall repair to the town clerk's office in every ſuch town, and in his preſence, or in caſe he ſhall be abſent, in the preſence of one or more of the ſelectmen of ſuch town, draw out of the box containing the names of the perſons nominated by the authority of ſuch town to ſerve as petit jurors, the number his venire directs him to ſummon, and ſhall ſummon the perſons ſo drawn, by reading the ſaid venire in

Clerks to iſſue venires for petit jurors.

Petit jurors how ſummoned.

their hearing, and notifying them reſpectively, of their being drawn to ſerve as jurors, agreeable to the precept of ſaid venire, or by leaving a copy of the ſaid venire, with ſuch notice endorſed thereon, as is directed in the ſervice of writs of ſummons in civil proceſſes. But if any ſuch perſon or perſons ſhall be abſent, or ſick, ſo that probably they cannot attend ſaid court, the name or names of ſuch perſon or perſons, ſhall be returned into the box, and others drawn in their ſtead and ſummoned as aforeſaid, which venire the ſaid ſheriff or his deputy ſhall return with the names of the perſons ſo ſummoned endorſed thereon, to the clerk iſſuing the ſame on the ſecond day of the ſeſſion of ſaid court.

Clerk of ſupreme court to iſſue a venire for grand jury.

SEC 59. *And it is hereby further enacted*, That it ſhall be the duty of the clerk of the ſupreme court of judicature, in each county ſome time previous to every ſtated ſeſſion of ſaid court, to iſſue a venire directed to the ſheriff of the county or his deputy, and ſeaſonably deliver or cauſe the ſame to be delivered to ſuch ſheriff or deputy, commanding him to ſummon eighteen judicious men being freeholders within ſaid county, from the ſeveral towns in ſaid county therein mentioned, to appear before ſaid court, at ten o'clock, on the firſt day of the ſeſſion of ſaid court, to ſerve as grand jurors in ſaid court—which jurors ſhall be drawn in the ſame manner and ſummoned within the ſame times, and a return thereof made in the ſame manner as is directed in the preceding ſection.

Grand jury how ſummoned.

Clerks to iſſue venires for grand jurors for county courts & ſpecial or

SEC. 60. *And it is hereby further enacted*, That when the attorney for the ſtate, ſhall think it expedient, that a grand jury ſhall attend any ſtated or adjourned ſeſſion of any county court, or any ſpecial or adjourned ſeſſion of the ſupreme court of judicature, in any

county, it ſhall be his duty to give notice thereof to the clerk of ſuch courts reſpectively, in writing, and the clerks, reſpectively, ſhall thereupon iſſue a venire for a grand jury to attend ſuch court, directed to the ſheriff of the county or his deputy, who ſhall execute the ſame in all things as above directed. adjourned ſupreme court on direction of ſtates attorney.

SEC. 61. *And it is hereby further enacted*, That if any ſheriff or his deputy as aforeſaid ſhall refuſe or neglect to ſerve ſuch venire, or to make ſeaſonable return thereof to the clerk, the ſheriff ſhall be amerced a ſum not exceeding twenty dollars, to the treaſury of the ſtate (if the venire was made returnable to the ſupreme court) or to the county treaſury (if returnable to the county court) unleſs the ſheriff ſhall ſhew ſufficient cauſe for ſuch refuſal or neglect. Sheriffs neglecting to ſerve venires penalty for.

SEC. 62. *And it is hereby further enacted*, That if any juror ſhall not appear after being duly ſummoned as aforeſaid, and ſhall not render an excuſe to the ſatisfaction of the court in which he was ſummoned to appear, he ſhall pay a fine of five dollars, to the treaſurer of the ſtate, if default be made in the ſupreme court, and to the treaſurer of the county, if the default ſhall be made in the county court, and coſt of proſecution. Jurors neglecting to appear after being ſummoned, to be fined.

SEC. 63. *And it is hereby further enacted*, That when it ſhall happen that a ſufficient number of jurors ſummoned as aforeſaid, do not appear, or if by reaſon of challenges or other cauſes, there ſhall not be a ſufficient number of jurors to make up the pannel or pannels, the court ſhall order the ſheriff or other officer, to fill up ſuch jury or juries by ſummoning either with, or without, a precept, a ſufficient number of judicious men, being free-holders of the vicinity. And in all caſes when a ſpecial ſeſſion of the ſupreme court Tales de circumſtantibus.

ſhall be called, the pannels of the grand and petit jurors, ſhall be filled in the ſame manner, as is before directed in this act, under the direction of the preſiding judge, and if there ſhall not be a ſufficient number preſent, the ſheriff ſhall complete ſuch deficiency as is above provided.

Court may order an additional pannel of jurors.

SEC. 64. *And it is hereby further enacted*, That the ſupreme and ſeveral county courts ſhall have power, during the ſeſſion of their reſpective courts, to order an additional pannel of petit jurors, at their diſcretion, and the clerk of ſaid courts reſpectively, under the direction of the ſame, ſhall iſſue a venire directed to the ſheriff or his deputy, as before directed in this act, requiring him to ſummon in manner as before mentioned, ſuch number of petit-jurors as ſhall therein be directed, to appear before ſaid court at the time therein ſpecified—and the ſaid ſheriff in caſe of refuſal, or neglect, and the ſaid jurors in caſe of non-appearance, or not making ſuch excuſes as is herein before directed, ſhall be ſubject to the ſame penalties reſpectively, as are before provided in this act.

Grand jury to have a foreman appointed by the court, who may ſwear witneſſes, duty of.

SEC. 65. *And it is hereby further enacted*, That after the grand jury are impannelled and ſworn, the court ſhall appoint a foreman, who ſhall have power to ſwear all witneſſes to teſtify before them, and who ſhall when the grand jury, or any twelve of them, find a bill of indictment to be ſupported by good and ſufficient evidence write thereon, *a true bill*, and when they do not find any bill to be ſupported by ſufficient evidence the foreman ſhall indorſe thereon *this bill not found*, and the accuſed perſon ſhall be thereupon diſcharged. And no perſon ſhall be held to trial, or put to plead to any indictment, or information for a capital offence, unleſs a bill of indictment be found

againſt ſuch perſon, for ſuch crime, by a grand jury legally empannelled and ſworn, and that no bill of indictment ſhall be preſented by a grand jury, unleſs twelve of the jurors ſhall be agreed in the ſame—and no perſon ſhall be compelled to plead to any indictment or information, until he, or ſhe ſhall have been furniſhed with a copy of ſuch indictment, or information at leaſt twenty four hours, and it ſhall be the duty of the attorney of the ſtate to furniſh the ſame.

No perſon compelled to plead to an indictment till he is furniſhed with a copy.

SEC. 66. *And it is hereby further enacted*, That the judges of either of the courts before whom a cauſe may be pending, ſhall have power, if they judge that the jury have miſtaken the law or evidence materially in the iſſue, or have not paid proper attention thereto, to cauſe them to return to a ſecond and third conſideration of the caſe, and if the jury do not alter or retract their verdict, the ſame ſhall be received—and when the court have committed any caſe to the conſideration of the jury, they ſhall be confined under the care of an officer appointed by the court, and ſworn for that purpoſe, until they have agreed on a verdict, or are diſcharged from giving a verdict by order of court.

Petit jury may be returned by the court for a ſecond and third conſideration. To be kept together by an officer until they are agreed or diſcharged.

SEC. 67. *And it is hereby further enacted*, That the judges of the ſupreme court of judicature and county courts ſhall determine matters of law, ſtated and referred to them by the jury in their ſpecial verdicts, which verdicts the jury in all caſes may find, agreeably to the uſages of law.

May return ſpecial verdicts.

SEC. 68. *And it is hereby further enacted*, That bills of exception may be made and tendered in trials, in which they are or may be proper, agreeably to the uſages of law, and be annexed to, or made a part of the record.

Bills of exception may be tendered.

Provided always, That it ſhall be neceſſary, that two judges at leaſt, ſhall be agreed in the

Muſt be certified

by two judges.

facts ſtated, and ſhall certify the ſame under their hands.

Courts may receive a general verdict.

SEC. 69. *And it is hereby further enacted*, That the ſupreme court of judicature, and the county courts reſpectively, ſhall have power to receive a general verdict, ſubject to the opinion of the court, on a caſe ſtated and reſerved, by agreement of parties, or their counſel, under the direction of the court, which caſe ſo ſtated and reſerved ſhall be entered as part of the record.

Judges of ſupreme court to give their opinions in writing in deciſions on ſpecial verdicts &c.

SEC. 70. *And it is hereby further enacted*, That it ſhall be the duty of the judges of the ſupreme court of judicature, in all deciſions on ſpecial verdicts, caſes reſerved, writs of error, demurrers, either in the courſe of pleadings, or to evidence; and motion in arreſt of judgment, ſeverally to draw up their opinions in writing, and deliver the ſame to the clerk, whoſe duty it ſhall be to enter ſuch opinions at large, in a book to be by him kept for that purpoſe.

Parties may not treat jurors before or after verdict.

SEC. 71. *And it is hereby further enacted*, That if any perſon obtaining a verdict in his favor, in any court in this ſtate, ſhall during the ſeſſion of the ſaid court, in which ſuch verdict is obtained, give to any of the jurors in ſaid cauſe, knowing him or them to be ſuch, any victuals or drink, or procure the ſame to be done, by way of treat, whether before or after ſuch verdict, on due proof thereof being made, it ſhall be ſufficient reaſon to ſet aſide the verdict, and award a new trial in ſuch cauſe.

Courts by agreement of parties may try iſſues of facts.

SEC. 72. *And it is hereby further enacted*, That the ſeveral courts in this ſtate, ſhall have power to try any iſſue of fact, referred to them by agreement of the parties, in any ſuit pending before them.

SEC. 73. *And it is hereby further enacted*, That when any ſuit ſhall be pending in any

court of record in this ſtate, and either of the parties ſhall die before final judgment, the executor or adminiſtrator of ſuch deceaſed party, who was plaintiff, petitioner or defendant, in caſe the cauſe of action doth by law ſurvive, ſhall have full power to proſecute or defend any ſuch ſuit or action, to final judgment, and the defendant or defendants, ſhall be holden to anſwer thereto accordingly. And the court before whom ſuch cauſe may be pending, is hereby empowered and directed to hear and determine the ſame, and to render judgment, for or againſt the executor or adminiſtrator, as the caſe may require; and if ſuch executor or adminiſtrator, having been duly ſerved with a *ſcire facias*, from the clerk of the court where ſuch ſuit is pending, twelve days before the ſeſſion of the court, to which ſuch writ is returnable, ſhall neglect, or refuſe to become a party to the ſuit, the court may render judgment againſt the eſtate of the deceaſed party, in the ſame manner, as if the executor or adminiſtrator had voluntarily made himſelf a party to the ſuit; but if there be no executor or executor's adminiſtrator or adminiſtrators, elected or appointed, ſuch action or ſuit, or ſuggeſtion of ſuch death as aforeſaid, ſhall be continued of courſe, until an executor or executors, adminiſtrator or adminiſtrators, ſhall be elected or appointed agreeably to law. And the executor or adminiſtrator, who ſhall become a party as aforeſaid, ſhall, upon motion to the court where the ſuit is pending, be entitled to a continuance of the ſame until the next term of the ſaid court. And if there be two or more plaintiffs or defendants, and one or more of them die, if the cauſe of action ſurvive, to the ſurviving plaintiff or plaintiffs, or againſt the ſurviving defendant or defendants, the writ or action ſhall not be thereby abated, but

Parties dying pending a ſuit, executor and adminiſtrator may proſecute & defend.

ſuch death being ſuggeſted upon the record, the action ſhall proceed at the ſuit of the ſurviving plaintiff or plaintiffs againſt the ſurviving defendant or defendants.

Judgment againſt an inſolvent eſtate, execution to be ſtayed until a ſettlement made and then to iſſue for a dividend.

SEC. 74. *And it is hereby further enacted*, That when judgment ſhall be recovered as aforeſaid, againſt any eſtate repreſented inſolvent, execution ſhall thereupon be ſtayed, until a complete and full ſettlement of ſuch inſolvent eſtate ſhall be made in the probate office, and the party ſhall take execution for no greater ſum than ſhall be his, her, or their juſt proportion or dividend, out of ſuch inſolvent eſtate, agreeably to the ſettlement of ſaid eſtate in the probate office.

In caſes of forfeiture courts may give judgment in equity.

SEC. 75. *And it is hereby further enacted*, That in all cauſes brought before either of the county courts, or the ſupreme court of judicature, to recover the forfeiture annexed to any articles of agreement, covenant, bond, bond of recognizance with a condition thereunto annexed, contract, charter party or other ſpecialty, where the forfeiture, breach, or nonperformance ſhall appear by a verdict of a jury, or by the default, or confeſſion of the defendant, or upon demurrer, the courts reſpectively before which the action is pending, are hereby authorized and empowered, to moderate the rigour of the law, and render judgment therein for the plaintiff to recover ſo much as is due, according to equity and good conſcience, and award execution accordingly —and when the ſum for which judgment ſhould be rendered is uncertain, the ſame ſhall, on the requeſt of either party, be aſſeſſed by a jury.

The ſum being uncertain may be aſſeſſed by a jury.

Judgment on mortgages to

SEC. 76. *And it is hereby further enacted*, That in all caſes brought before either of the courts aforeſaid, to recover on the forfeiture of real eſtate granted upon condition, by deed

of mortgage, or bargain and ſale with defeaſ- be condi-
ance, when the forfeiture, breach or non-per- tional and
performance ſhall appear, or be ſhown to the according
court after the verdict of a jury, or the default, to equity.
or confeſſion of the defendant, or upon demur-
rer, the courts reſpectively before which ſuch
action is pending, ſhall after judgment render-
ed therein for the plaintiff to recover in com-
mon form, and on application of the defend-
ant or defendants in ſuch action, order ſtay of
execution thereon, and having aſcertained the
ſum or ſums that ſhall be due in equity there-
on, to the plaintiff or plaintiffs, ſhall further
order, that if the mortgagor or vendor, his
heirs, executors, adminiſtrators or aſſigns,
ſhall tender or pay ſuch ſum as the court ſhall
adjudge, which ſhall include the coſts of ſaid
ſuit, due thereon, with the legal coſts to the
clerk of ſaid court, by a time to be limited by
ſaid court, not exceeding one year from the
rendition of ſuch judgment, ſaid judgment
ſhall be vacated, and the ſaid clerk ſhall receive
the ſame, and deliver a certificate thereof to
the perſon making ſuch tender or payment,
and make a record of the ſame, which certifi-
cate being recorded in the town clerk's office,
or county clerk's office (as the caſe may be)
where the land lies, ſhall diſcharge and forever
defeat ſuch mortgage, or deed of bargain and
ſale with defeaſance; and when the plaintiff
ſhall receive ſuch ſum of the clerk, he ſhall
ſubſcribe a receipt therefor, upon the records
of the court; but if the mortgagor or vendor
ſhall not tender or pay ſuch ſum, with the le-
gal coſt, as aforeſaid, by the time limited as
aforeſaid, the plaintiff ſhall have his writ of
poſſeſſion, of the land, deſcribed in ſuch mort-
gage or deed of bargain and ſale as aforeſaid,
to be iſſued by the clerk of the court in which
ſuch judgment was rendered, and ſhall hold the

ſame to himſelf, his heirs and aſſigns diſcharged from all right and equity of redemption.

Rights in equity reverſion & remainder liable to attachment and execution

SEC. 77. *And it is hereby further enacted*, That all rights in equity of redeeming lands mortgaged, reverſion, or remainders, ſhall be liable to be taken by attachment upon *meſne* proceſs, and by execution upon judgment recovered for the payment of the juſt debts of the mortgagor, or owner; and any perſon at whoſe ſuit ſuch right in equity of redeeming ſuch mortgaged lands is taken in execution, ſhall have the ſame, and as full and ample right and power of redeeming ſuch lands, as the mortgagor himſelf had or ought to have, and may procure and receive a diſcharge of mortgages, in the ſame manner as the original mortgagor might have done.

Courts power to leſſen recognizances in criminal caſes.

SEC. 78. *And it is hereby further enacted*, That in all actions brought to recover the penalty or forfeiture, annexed to any bond of recognizance given or taken in any criminal cauſe, or action whatever, the ſeveral county courts, and the ſupreme court of judicature reſpectively, are hereby authorized and empowered to leſſen the ſum of any ſuch bond, or recognizance, and render ſuch judgment thereon, as the nature and circumſtances of the caſe ſhall require; any law uſage or cuſtom to the contrary notwithſtanding.

May refer cauſes by rule of court and agreement of parties.

SEC. 79. *And it is hereby further enacted*, That the ſupreme court of judicature, and the ſeveral county courts, reſpectively, ſhall have power by agreement of parties, and by a rule of court to refer any cauſe pending in their courts reſpectively, to the determination of ſuch number of men, as ſhall be agreed upon by the parties; which rule ſhall be made in an order of the court as follows, namely,

"IT is ordered by the court, by the conſent of the parties, that this cauſe, and all de-

mands, (if the parties ſhall ſo agree), be referred to the determination of
the report of whom, or a major part of them, (or all of them as the parties ſhall agree) made to this court, term, ſhall be final and concluſive between the parties—The ſaid to be chairman of ſaid reference, and notify the parties and other referees, of the time and place of meeting. And if either party, after being duly notified, ſhall neglect to attend, the referees may proceed ex parte." Form of rule of court.

Which report being returned, ſhall be allowed and accepted by the court granting the rule, unleſs ſufficient cauſe in the opinion of the court, ſhall be ſhewn to the contrary. And if allowed and accepted the ſaid court ſhall render judgment for the damages therein contained, with additional coſts of court, and award execution accordingly. But if ſuch report ſhall not be allowed, and accepted, or no report be made as aforeſaid, the parties may again refer the cauſe, or the ſame ſhall be open for trial at law, as though the ſame had never been referred, and the party in whoſe favor a report ſhall be finally made, or who ſhall finally recover in ſaid cauſe, ſhall be allowed in his bill of coſt, the coſt of the former reference, to be taxed by the court. Report to be made.

SEC. 80. *And it is hereby further enacted*, that all depoſitions, taken for the reaſons and in the manner hereafter preſcribed, ſhall be admitted to be read as evidence, in the cauſes for which they are taken. Depoſitions admitted as evidence.

SEC. 81. *And it is hereby further enacted*, That when a witneſs ſhall live at a greater diſtance than thirty miles, from the place of trial in any civil cauſe, or is going out of the ſtate, and not to return before the time of tri- Depoſitions when and how taken out of court.

al, or by reaſon of age, ſickneſs or other bodily infirmity, he, or ſhe are rendered incapable of travelling and appearing at court, every juſtice of the peace, be, and he is hereby empowered, to take the depoſition of ſuch witneſs out of court, and every juſtice to whom application is made to take a depoſition out of court, ſhall iſſue a ſub pœna for the appearance of the witneſs before him, in the uſual form, and ſhall alſo iſſue a citation to the adverſe party, if he, ſhe or they live within this ſtate, and within thirty miles of the place of caption, or if not within this ſtate, but ſhall live within thirty miles of the place of caption, of the following tenor—

Form of citation.

"STATE OF VERMONT. County ſs.

"To the ſheriff of county, his deputy or either of the conſtables of in ſaid county, or to an indifferent perſon, *Greeting*—

"By the authority of the ſtate of Vermont, you are hereby required to notify C. D. of in the county of to appear before me at houſe, in the town of in ſaid county, on the day of at o'clock, noon, to be preſent, at the taking of the depoſition of E. F. to be uſed in a cauſe, to be heard and tried before court, to be holden within and for the county of on the day of next, in which cauſe of is plaintiff, and of defendant, Hereof fail not, but of this precept, and your doings herein, due return to me make.

Given under my hand at this day of A. D.

G. H. Juſtice of the Peace."

A copy of which citation ſhall be delivered to ſuch adverſe party, or left at his, her, or their laſt and uſual place of abode, by a proper

officer, or an indifferent perſon, whoſe return ſhall be made under oath, ſo that he, ſhe, or they may have a reaſonable time to appear and be preſent at the taking of ſuch depoſition.

Perſon not appearing, after being duly ſummoned, and his fees tendered, may be attached.

SEC. 82. *And it is hereby further enacted*, That if any perſon on whom a ſubpœna as aforeſaid, ſhall be ſerved, having been tendered his or her legal fees, ſhall refuſe or neglect to appear at the time and place therein mentioned, before the authority iſſuing the ſame, to make his or her depoſition, the ſaid authority ſhall have power to iſſue an attachment, to compel the appearance of ſuch perſon. And if upon appearance by virtue of ſuch attachment, ſuch perſon ſhall refuſe to make his or her depoſition, the ſaid authority by his warrant directed to the ſheriff of the county, or ſome other meet perſon, who ſhall have power, reſpectively, to command neceſſary aſſiſtance againſt the perſon ſo refuſing, and forthwith cauſe him or her to be committed to the common gaol, in ſaid county, there to remain until ſuch perſon ſhall make his or her depoſition as required, and diſcharge the coſts of commitment; a copy of ſuch warrant, atteſted by the officer or perſon ſerving the ſame, ſhall be ſufficient authority to the gaoler to detain ſuch perſon. And every ſuch witneſs, ſhall be carefully examined and duly cautioned, to teſtify the whole truth and nothing but the truth, and being ſworn, the juſtice ſhall certify the ſame in manner following—

Perſon refuſing to make his depoſition, to be committed.

Form of caption of a depoſition.

"STATE OF VERMONT. ſs.
(the town) day of A. D.
"Then A. B. of in the county of perſonally appearing, and after being carefully examined and duly cautioned, made ſolemn oath, that the foregoing depoſition by him

ſubſcribed, contains the whole truth and nothing but the truth.

Before *C. D.* Juſtice of the Peace."

Form of certificate

"The above depoſition taken at the requeſt of E. F. to be uſed in a cauſe to be heard and tried before the honorable court, next to be holden at within and for the county of in which cauſe is plaintiff, and defendant. The deponent living more than thirty miles from the place of trial (or was going out of the ſtate, not to return before the time of trial; or rendered incapable of travelling and appearing at ſaid court by reaſon of age, ſickneſs, or bodily infirmity, as the caſe may be) and the adverſe party (living more than thirty miles from the place of caption) was (or was not) notified, and did (or did not) attend.

Certified by *C. D.* Juſtice of the peace."

Which depoſition the ſaid juſtice ſhall ſeal up, and ſuperſcribe in the following manner, namely,

Superſcription.

"The within depoſition of A. B. was taken and ſealed up

by *C. D.* Juſtice of the Peace."

And ſhall deliver the ſame to the party or perſon, if deſired, at whoſe requeſt it ſhall be taken.

An attorney or perſon intereſted not to write or draw up depoſitions.

SEC. 83. *And it is hereby further enacted*, That no agent, attorney or perſon intereſted in any cauſe, ſhall write or draw up the depoſition of any witneſs, to be uſed in ſuch cauſe, and if it ſhall appear that any agent, attorney, or any perſon intereſted in the cauſe, ſhall write or draw up ſuch depoſition, or if ſuch depoſition ſhall be returned into court, in any cauſe, unſealed or with the ſeal broken, all ſuch depoſitions ſhall be rejected by the court.

Depoſition tak-

SEC. 84. *And it is hereby further enacted*, That all depoſitions of witneſſes living without

this ſtate, ſhall be allowed in any court in this ſtate, if taken agreeable to the directions of this act, or the laws of the ſtate in which they ſhall be taken. en without the ſtate, when to be read.

SEC. 85. *And it is hereby further enacted*, That if any perſon upon whom any ſubpœna ſhall be legally ſerved, commanding him or her to appear and teſtify concerning any cauſe or matter, pending in any court in this ſtate, or before auditors, referees, or arbitrators, there having been tendered unto him or her ſo much money for his or her travel, and one day's attendance, as by law is, or ſhall be allowed, do not appear according to the tenor of ſuch ſubpœna, having no lawful nor reaſonable excuſe, or impediment to the contrary, the perſon ſo making default, ſhall for every ſuch default, forfeit the ſum of ten dollars, and pay to the party in whoſe behalf he or ſhe ſhall be ſubpœned to appear and teſtify, all juſt damages; which forfeiture and damages, ſhall be recovered by the party aggrieved, before any court proper to try the ſame. Witneſſes ſummoned. Fees to be tendered. Penalty for not attending

SEC 86. *Provided nevertheleſs, and it is hereby further enacted*, That when any party in any cauſe pending before the ſupreme court of judicature, or either of the county courts in this ſtate, ſhall make it appear to the ſatisfaction of ſuch court, that he has cauſed a ſub pœna to be duly ſerved on any witneſs to appear and teſtify in his cauſe, and has tendered ſo much money for his or her travel and attendance, as is by law directed, and ſuch witneſs has neglected to appear, ſuch court ſhall have power to iſſue an attachment, to compel the appearance of ſuch witneſs. Witneſſes ſummoned to appear in court. Neglecting to appear after tender of fees, may be attached.

SEC. 87. *And it is hereby further enacted*, That, it ſhall be the duty of the party producing any witneſs in court, to procure an endorſement on the back of the ſubpœna by virtue of which he, or ſhe appeared, or a certifi- Witneſs to certify on the back of

the ſub poena his travel & attend-ance.

cate under the hand of ſuch witneſs, ſpecifying the number of miles from his or her uſual place of abode, to the place of trial, and the number of days he or ſhe attended as a witneſs, before ſuch witneſs' travel or attendance ſhall be allowed ſuch party, in his, her or their bill of coſts.

SEC. 88. *And it is hereby further enacted*, That inſtead of the circuitous mode of proſecuting for the recovery of landed property, heretofore uſed in this ſtate, any perſon having claim to the ſeiſin or poſſeſſion of lands, tenements, or hereditaments, ſhall have an action by writ of ejectment, according to the nature of the caſe, as nearly as may be, agreeably to the form preſcribed by law, which action ſhall, in all caſes, be brought as well againſt the landlord or landlords, if any there be, as againſt the tenant or tenants, in poſſeſſion of the premiſes demanded, and if any ſuch action be otherwiſe brought, the ſame ſhall, on motion, be abated. And the judgment recovered in ſuch action ſhall, while remaining in force, be concluſive againſt the defendant or defendants, their heirs and aſſigns—and if the plaintiff or plaintiffs ſhall neglect to join the landlord or landlords, if any there be, with the tenant or tenants, in ſuch action, or ſhall by colluſion with the tenant or tenants recover judgment againſt him, her or them for the ſeiſin, or poſſeſſion of any lands, tenements or hereditaments, ſuch landlord or landlords, ſhall not be prejudiced thereby, but ſhall in any trial thereafter to be had of his, her or their right to ſuch lands, tenements or hereditaments againſt the perſon or perſons ſo recovering as aforeſaid, or any holding or deriving claim from or under him, her or them, be taken and holden to have the prior poſſeſſion. And in every ſuch action if judgment be rendered

Ejectment.

How brought.

To abate in certain caſes.

Landlord to be joined with the tenant.

for the plaintiff, he ſhall recover as well his damages, as the ſeiſin or poſſeſſion of the premiſes.

Writ not to abate, becauſe all the tenants are not ſued. Defendant may anſwer for part, and diſclaim for remainder.

SEC. 89. *And it is hereby further enacted*, That in every action of ejectment, the writ ſhall not be abated, becauſe all the tenants are not ſued, but thoſe on whom ſervice is made, ſhall anſwer for ſuch part of the premiſes only, as he, ſhe or they ſhall diſtinguiſh, and ſet forth in his, her, or their plea, and diſclaim the remainder; and if any ſhall diſclaim the whole, unleſs the plaintiff ſhall prove ſuch diſclaimer's poſſeſſion, of all or part of the premiſes demanded, ſuch diſclaimer ſhall recover coſts againſt the plaintiff.

Plaintiffs to recover according to their right.

SEC. 90. *And it is hereby further enacted*, That on the trial to be had in ſuch action, the plaintiff ſhall recover on the merits, according to his, her or their right, as has been heretofore uſed in former actions of ejectment.

Action on joint bonds &c. how proſecuted in certain caſes.

SEC. 91. *And it is hereby further enacted*, That on all joint bonds, recognizances, bills, notes and contracts, executed by two or more perſons, and any one of them ſhall reſide without the juriſdiction of any court, within this ſtate, an action may be brought and ſuſtained thereon, againſt the other, or others, the ſame as though ſuch contracts were joint and ſeveral—And that on all joint and ſeveral contracts, executed by three or more perſons, and any of them live without the juriſdiction of any court, within this ſtate, an action may be brought and ſuſtained thereon, againſt any one or more of them, ſuggeſting in the writ in all ſuch caſes, the perſon or perſons without the juriſdiction as aforeſaid. And the repreſentatives of one jointly bound or holden with any other by bond, covenant, promiſſory note, or other contract in writing, for the payment of any debt, or for the performance or forbearance of any act, or any other thing, and

dying during the life time of the other, may be charged by virtue of ſuch bond, covenant, promiſſory note, or other contract in writing, in the ſame manner as ſuch repreſentatives might have been charged, if the obligors, or perſons holden as aforeſaid, had been bound or holden ſeverally as well as jointly; any law uſage or cuſtom to the contrary notwithſtanding.

SEC. 92. *And it is hereby further enacted*, That if the plaintiff in any action, pending before any court, on bond, bill, note or other contract, ſhall be indebted to the defendant, in ſuch action, the defendant after pleading the general iſſue, or confeſſing the plaintiffs' cauſe of action, may plead an offset of any ſum or ſums due to him from the plaintiff as aforeſaid, which plea ſhall be in the nature of a declaration in one or more counts, as the nature of the caſe may require, and if the plaintiff ſhall plead the general iſſue to any or all the counts in the defendant's plea, or ſhall confeſs the cauſe of action contained in any or all the counts in the defendant's plea, he may in like manner plead an offset of any ſum or ſums due to him, from the defendant as aforeſaid; and the iſſue, and pleadings being cloſed, the jury ſhall be directed to find generally, ſuch ſum or ſums as ſhall be found in arrear from either, and judgment ſhall be rendered thereon accordingly.

Provided always, That no ſum due on account, the balance whereof ſhall not be aſcertained under the hand or hands of the party or parties, or any bond, bill, note, or other contract not due and payable before the commencement of the plaintiff's action, nor any bond, bill, or note aſſigned or endorſed to the plaintiff or defendant ſhall be allowed in any plea of offset, unleſs it ſhall appear on trial,

that notice of ſuch aſſignment or endorſement, was given by the party holding ſuch bond, bill, or note, to the oppoſite party, before the commencement of the plaintiff's action, which in ſuch caſe, ſhall be taken to be the day of ſervice of the original writ in the action.

SEC. 93. *Provided alſo, and it is hereby further enacted*, That if any action ſhall be pending in either of the courts aforeſaid, and the defendant or defendants ſhall have any juſt demand on book againſt the plaintiff or plaintiffs, which cannot be plead as an offset as aforeſaid, it ſhall be lawful for ſuch defendant or defendants, on or before the third day of the firſt term of the court, in which by law he, ſhe or they is or are required to appear, to file in the ſame court in which ſuch action ſhall be pending as aforeſaid, a declaration ſetting forth the nature of ſuch demand, according to due form of law, which declaration, ſo filed, ſhall be ſufficient notice to the adverſe party to appear and anſwer thereto, and the court in every ſuch caſe ſhall proceed to the trial on ſuch declaration, previous to the trial of the original action, and if the defendant ſhall recover on ſuch declaration, the ſum ſo recovered ſhall be plead as an offset againſt the original plaintiff's demand as is above provided. And if the defendant or defendants filing ſuch declaration as aforeſaid, ſhall fail to ſubſtantiate, or proſecute the ſame to effect, the plaintiff or plaintiffs in the original action, ſhall be entitled to recover, *twelve per cent. per annum intereſt*, thereon as damages, occaſioned by ſuch delay, and ſingle or double coſts in the diſcretion of the court, before which ſuch original action ſhall be finally determined. And at the time of filing ſuch declaration ſuch defendant or defendants ſhall become recogniz-

ed before the court for the profecution of ſuch declaration, in ſuch ſum as the court before which the original action is pending ſhall direct.

Proviſo. *Provided always*, That the defendant, or defendants in ſuch declaration on book, ſhall on motion, be entitled to one continuance of the ſame action, and the ſame proceedings ſhall be had thereon, in all things, as though ſuch action had been entered in court in the uſual form.

Mutual judgments may be offset. SEC. 94. *And it is hereby further enacted*, That when there are mutual judgments recovered between the ſame parties in any court, ſuch court, may on motion of either party, offset ſuch judgments againſt each other, and execution ſhall iſſue for the balance only.

Executions when to iſſue and be returned. SEC. 95. *And it is hereby further enacted*, That the ſeveral courts before mentioned, reſpectively, be, and they are hereby empowered to iſſue execution, in due form of law, on every judgment by them, reſpectively rendered, where no appeal or review is by law allowed, or where no appeal or review hath been entered, or motion in arreſt of judgment, or for a new trial has been made, within the times allowed therefor. And any writ of execution iſſued from either of the courts aforeſaid, ſhall be made returnable within ſixty days, or to the next court, (if not leſs than ſixty days), at the election of the party. And the attornies of record for the plaintiff and defendant, ſhall be endorſed on the back of every ſuch execution, by the authority ſigning the ſame.

Executions to be indorſed with the name of the attornies of record.

Provided always, That no execution ſhall iſſue on any judgment rendered by either of the courts aforeſaid, until twenty-four hours

after the rifing of ſuch courts, unleſs by the ſpecial permiſſion of the judges of ſuch courts.

Vexatious ſuits on judgments no coſts to be taxed for the plaintiff.

SEC. 96. *And it is hereby further enacted*, That where any perſon ſhall commence an action, on any judgment obtained in any county court, or in the ſupreme court of judicature, in this ſtate, upon which execution might at the time of commencing ſuch action of debt have iſſued, if the court or juſtice before whom ſuch action is brought, ſhall be of opinion that ſuch action is brought to vex and harraſs the defendant, and debtor, and with deſign to increaſe thec oſts, and that the plaintiff or creditor might have availed himſelf of an execution on the ſame judgment, in a manner equally advantageous for obtaining his demand of his debtor, as that of a new ſuit on the ſame judgment, then and in every ſuch caſe, the court or juſtice before whom any ſuch action may be brought, ſhall not render judgment for coſts, in any ſuch ſuit in favor of the plaintiff or creditor, but for the debt only.

Actions of treſpaſs, defamation, &c. no more coſts than damages.

SEC. 97. *And it is hereby further enacted*, That in all actions of treſpaſs *quare clauſum fregit*, other than thoſe in which the right of title or poſſeſſion of any land, tenements, or hereditaments, ſhall come in queſtion, all actions of the caſe for ſlanderous words; all actions of aſſault and battery; and all actions of impriſonment, hereafter proſecuted in any of the courts of record in this ſtate, if the damage found or aſſeſſed by the jury, do not ſurmount the ſum of ſeven dollars, the court ſhall allow no greater coſts than damages.

First proviſo.

Provided, If the defendant appeal from ſuch judgment, or review the cauſe, and final judgment ſhall be rendered for the appellee, or reviewee, he ſhall recover full coſts.

Provided nevertheleſs, That in all actions of treſpaſs, *quare clauſum fregit*, other than thoſe in which the right of title of lands, tenements, or hereditaments, ſhall come in queſtion, and all actions of treſpaſs for an aſſault and battery, although the jury who try the cauſe ſhall find the damages under ſeven dollars, yet if the court ſhall be of opinion that the treſpaſs, upon which the defendant ſhall be found guilty, was wilful and malicious, and ſhall certify the ſame to the clerk, the plaintiff ſhall recover his full coſts of ſuit, any thing herein contained to the contrary notwithſtanding.

Full coſts allowed where the treſpaſs was malicious.

SEC. 98. *And it is hereby further enacted*, That the general iſſue of not guilty, *nil debet*, or any other general plea proper to the action, whereby the whole declaration is put upon proof, according to the nature of the caſe, may be made by the defendant, under which general plea, the defendant ſhall have liberty upon the trial of the cauſe, on ſuch general iſſues, to give any ſpecial matters in evidence in his defence, or juſtification, as the nature of the action may be; the defendant giving notice in writing with the plea, of the ſpecial matter or matters, on which he, or ſhe ſhall rely in ſuch defence or juſtification, and no ſpecial matter ſhall be given or allowed in evidence, except ſuch as ſhall be particularly mentioned in ſuch notice in writing as aforeſaid.

Special matters when to be given in evidence under the general iſſue.

SEC 99. *And it is hereby further enacted*, That in all actions on any bond, or for any penal ſum for non-performance of any covenants, agreements, in any condition, indenture, deed or writing contained, the plaintiff or plaintiffs may aſſign as many breaches as he, ſhe or they ſhall think fit, and the jury upon trial of ſuch iſſue or iſſues, as ſhall be thereupon put to them, ſhall and may aſſeſs

damages for ſuch breaches, as the plaintiff or plaintiffs ſhall prove; and on ſuch verdict, the court ſhall enter up judgment for the whole penalty, and execution ſhall iſſue for ſo much as the jury ſhall have found in damages with coſts. And if there ſhall in any ſuch action be judgment for the plaintiff or plaintiffs, on demurrer, or by confeſſion, default, or *nihil dicit*, the plaintiff or plaintiffs may aſſign as many breaches as he, ſhe or they, ſhall think fit, the truth whereof ſhall be found and the damages ſuſtained, be aſſeſſed according to law, and execution ſhall iſſue for ſuch damages, and the judgment ſhall remain as a ſecurity to the plaintiff or plaintiffs, his, her or their executors and adminiſtrators, for any other breaches, which ſhall afterwards happen; and he, ſhe or they may, from time to time, have a *ſcire facias* on ſuch judgment againſt the defendant or defendants, his, her or their executors and adminiſtrators, and aſſign for any other breach, and thereupon damages with coſts ſhall be aſſeſſed, and execution iſſue as aforeſaid.

Paſſed March 2, 1797.

CHAPTER IV.

An ACT *conſtituting a* court of Chancery.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That there be, and hereby is conſtituted a court of chancery within and for this ſtate; and the judges of the ſupreme court of judicature, two of whom to be a quorum, be and they hereby are conſtituted and appointed judges or chancellors of ſaid court, with all the powers incident to a court of chancery.

SEC. 2. *Provided always, and it is hereby further enacted,* That if two of the judges or chancellors, in the trial of any cauſe, ſhall be intereſted, or ſhall have been of council for either party, in ſaid cauſe, in every ſuch caſe one judge ſhall hold the court for the trial of ſuch cauſe.

SEC. 3. *And it is hereby further enacted,* That the proceedings in ſaid court, ſhall be regulated by the judges thereof, conforming to the rules and precedents eſtabliſhed in courts of chancery, in the kingdom of Great-Britain, ſo far as ſhall be conſiſtent with the conſtitution and laws of this ſtate.

Writ of execution may iſſue on decrees.

SEC. 4. *And it is hereby further enacted,* That when any decree ſhall finally be made by ſaid court of chancery, againſt any party, a writ of execution may iſſue in the ſame form, and ſhall in all things, have the ſame effect, as writs of execution on judgments at law.

Writs of ſequeſtration may iſſue.

SEC. 5. *And it is hereby further enacted,* That pending any bill in chancery before ſaid court, the ſaid judges ſhall have power, on ſufficient reaſon being ſhown and verified by affidavit, to iſſue a writ of ſequeſtration, againſt the goods, chattels, or eſtate of the defendant, or defendants in ſaid bill, and ſuch writ of ſequeſtration ſhall be ſerved in the ſame manner as is directed by law in the caſe of attachments on *meſne proceſs*, and the eſtate thereby ſequeſtered, ſhall, in like manner be holden to reſpond the decree which ſhall be finally made on ſaid bill, and may, on motion, require of any plaintiff or plaintiffs, ſufficient ſecurity for coſts of proſecution, as in proceedings of law.

Paſſed March 7. 1797.

CHAPTER V.

An ACT *affixing the times and places for holding the ſeveral* county courts *and the* ſupreme court of judicature *and* chancery, *in the ſeveral counties in this ſtate.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That the county courts, in the reſpective counties, in this ſtate, ſhall be holden as follows, viz.

At Bennington, in the county of Bennington, on the third Monday of December; and at Manchester, in ſaid county, on the firſt Monday of June, annually.

At Rutland, in the county of Rutland, on the third Monday of March; and on the third Monday of November, annually.

At Middlebury, in the couty of Addiſon, on the firſt Monday of March; and on the laſt Monday of September, annually.

At Burlington, in the county of Chittenden, on the laſt Monday ſave one in February; and on the laſt Monday ſave two in September, annually.

At St. Albans, in the county of Franklin, for the time being, on the firſt Monday of February; and on the laſt Monday of Auguſt, annually.

At New-Fane, in the county of Windham, on the ſecond Monday of June; and on the ſecond Monday of December, annually.

At Woodſtock, in the county of Windſor, on the third Monday of September; and on the third Monday of March, annually.

At Chelſea, in the county of Orange, on the ſecond Monday of June; and on the ſecond Monday of December, annually.

At Danville, in the county of Caledonia, on the firſt Monday of January ; and on the laſt Monday of June, annually.

SEC. 2. *And it is hereby further enacted*, That the ſupreme court of judicature, and court of chancery, ſhall, annually hold their ſeſſions in the ſeveral counties, at the times and places as follows, to wit,

At New-Fane, in the county of Windham, on the firſt Tueſday of Auguſt.

At Woodſtock, in the county of Windſor, on the third Tueſday of Auguſt.

At Chelſea, in the county of Orange, on the firſt Tueſday next following the fourth Tueſday of Auguſt.

At Danville, in the county of Caledonia, on the third Tueſday next following the fourth Tueſday of Auguſt.

At St. Albans, in the county of Franklin, for the time being, on the fourth Tueſday, next following the fourth Tueſday of Auguſt.

At Burlington, in the county of Chittenden, on the firſt Tueſday of January.

At Middlebury, in the county of Addiſon, on the third Tueſday of January.

At Rutland, in the county of Rutland, on the firſt Tueſday, next following the fourth Tueſday in January.

At Bennington, and Mancheſter, in the county of Bennington, alternately, on the third Tueſday, next following the fourth Tueſday of January.

Provided always, That if the inhabitants of the towns of Chelſea and Danville, ſhall not, within two years from the eighth day of November laſt paſt, each for themſelves, build and complete a good and ſufficient court-houſe and gaol in ſaid towns reſpectively, to the ſatisfaction and acceptance of the judges of the county courts, in the counties of Orange and

Caledonia, reſpectively, free of expence to ſaid counties, the courts ſhall be liable to be removed to ſuch other place, or places, in ſaid counties, reſpectively, as the Legiſlature ſhall, by law direct.

Paſſed March 8, 1797.

CHAPTER VI.

An ACT *dividing the* ſtate *into* counties, *and deſcribing the lines and boundaries thereof.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That this ſtate be divided into eleven counties, by the names of Bennington, Windham, Windſor, Rutland, Orange, Addiſon, Chittenden, Caledonia, Franklin, Eſſex, and Orleans; and that the lines, limits and boundaries of the ſeveral counties, ſhall be as follows, *namely*, Counties, names of.

The county of Bennington, bounded as follows, beginning at the ſouth-weſt corner of this ſtate, from thence running northerly on the weſt line of the ſtate, to the north-weſt corner of the town of Rupert; from thence eaſterly on the north lines of the towns of Rupert, Dorſet, Brumley and Landgrove, to the north-eaſt corner of ſaid Landgrove; from thence ſoutherly, on the eaſt lines of the towns of Landgrove, Winhall, Sunderland, Glaſtenbury, Searſburgh and Reedſborough, ſo as to include all ſaid towns in Bennington county, to the ſouth line of this ſtate; from thence weſterly on the ſouth line of this ſtate to the place of beginning. Bennington county boundaries.

The county of Windham is bounded as follows, *namely*, beginning at the ſoutheaſt corner of Bennington county, thence eaſterly on Windham county boundaries.

the ſouth line of this ſtate, to the eaſt line of the ſtate; from thence northerly on the eaſt line of this ſtate to the north-eaſt corner of Rockingham; thence weſterly on the northerly lines of the towns of Rockingham, Grafton, Windham, and Londonderry, to the eaſt line of Bennington county; from thence ſoutherly on the eaſt line of Bennington county to the place of beginning.

Windſor county boundaries.

The county of Windſor is bounded as follows, *namely*, beginning at the north-eaſterly corner of Windham county, from thence northerly on the eaſt line of this ſtate to the ſouth-eaſt corner of Thetford; from thence, weſterly on the ſoutherly lines of the towns of Thetford, Strafford, Tunbridge, Randolph, and Braintree, to the north weſt corner of Rocheſter; from thence ſoutherly on the weſt lines of the towns of Rocheſter, Stockbridge, Bridgwater, Saltaſh, Ludlow, Andover and Benton's Gore, *ſo called*, ſo as to include thoſe towns, to the north line of Windham county; from thence eaſterly on the north line of Windham county, to the place of beginning.

Rutland county boundaries.

The county of Rutland is bounded as follows, *namely*, beginning at the northweſt corner of Bennington county, from thence running eaſterly along the north line of Bennington county, to the weſt line of Windſor county; from thence northerly along the weſt line of Windſor county, to the ſouthweſt corner of the town of Rocheſter; from thence weſterly on the northerly lines of Philadelphia, Brandon, Sudbury and Orwell, ſo as to include thoſe towns, to the northweſt corner of Orwell; from thence weſt to the weſt line of this ſtate; from thence ſoutherly on the weſt line of this ſtate, to the place of beginning.

The county of Orange is bounded as follows, *namely*, beginning at the northeaſt corner of

Windſor county, from thence northerly on the eaſt line of this ſtate to the northeaſt corner of Newbury; from thence weſterly on the north lines of Newbury, Topſham, Orange, Barre and Berlin, to the northweſt corner of Berlin; from thence ſoutherly on the weſt lines of the towns of Berlin, Northfield, Roxbury and Braintree, ſo as to include thoſe towns, to the north line of Windſor county; from thence eaſterly on the north line of Windſor county, to the place of beginning. Orange county boundaries.

The county of Addiſon is bounded as follows, *namely*, beginning at the northweſt corner of Rutland county; from thence eaſterly on the north line of Rutland county to the ſoutheaſt corner of Hancock; from thence northerly on the weſt line of Orange county to the northeaſterly corner of Warren; from thence weſterly on the northerly lines of Warren, Lincoln, Starkeſborough, Monkton and Ferriſburgh, ſo as to include thoſe towns, to the northweſt corner of Ferriſburgh; from thence weſt, to the weſt line of this ſtate; and from thence ſoutherly on the weſt line of this ſtate, to the place of beginning. Addiſon county boundaries.

The county of Chittenden is bounded as follows, *namely*, beginning at the northweſt corner of Addiſon county, from thence eaſterly along the northerly line of Addiſon county to the weſt line of Orange county; from thence northerly on the eaſt lines of the towns of Waitsfield, Moretown, Middleſex and Worceſter to the northeaſt corner of Worceſter; from thence weſterly on the north lines of the towns of Worceſter, Stowe, Mansfield, Underhill, Weſtford and Milton to the northweſterly corner of Milton; from thence northerly and weſterly by the deepeſt channel of the waters, dividing the South and North Heros; thence weſt to the weſt line of this ſtate; Chittenden county boundaries.

thence ſoutherly on the weſt line of this ſtate to the place of beginning.

Caledonia county boundaries.

The county of Caledonia is bounded as follows, *namely*, beginning at the northeaſt corner of Orange county, from thence northerly on the eaſt line of this ſtate to the eaſterly corner of the town of Littleton; from thence northweſterly, on the eaſterly line of ſaid Littleton and on the northerly line of Concord, ſoutherly and weſterly lines of Victory, and the northerly lines of Burke and Billymead to the northweſt corner of ſaid Billymead; from thence ſoutherly, on the weſt lines of the towns of Sheffield, Wheelock, part of Goſhen, Hardwick, Woodbury, Calais and Montpelier, including thoſe towns, to the north line of Orange county; and from thence to the place of beginning.

Franklin county boundaries.

The county of Franklin is bounded as follows, *namely*, beginning at the northweſt corner of Chittenden county, thence eaſterly on the northerly line of Chittenden county to the ſoutheaſt corner of Sterling; from thence northerly, on the eaſterly lines of the towns of Sterling, Johnſton, Belvidere, Avery's Gore, Montgomery and Richford, to the north line of this ſtate; from thence weſterly on the north line of the ſtate to the weſt line thereof; from thence ſoutherly, on the weſt line of the ſtate, to the place of beginning.

Eſſex county boundaries.

The county of Eſſex is bounded as follows; *namely*, beginning at the northeaſt corner of the county of Caledonia, on the eaſt line of this ſtate; from thence northerly on the eaſt line of this ſtate, to the northeaſt corner thereof; thence weſterly on the north line of this ſtate, to the northweſt corner of Norton; from thence ſoutherly on the weſt line of ſaid Norton and the grant made to the widow Warner, and on the northerly line of Caldersburgh, and

on the west line of the town of Wenlock, and on the northerly and northwesterly lines of the towns of Random, and Westmore, to the northwest corner of Caledonia county; from thence on the northerly line of Caledonia county, to the place of beginning.

Orleans county boundaries.

The county of Orleans is bounded as follows, *namely*, beginning on the north line of this state, at the northeast corner of Franklin county; thence southerly on the east line of Franklin county to the north line of Chittenden county; from thence easterly on the north line of Chittenden county to the west line of Caledonia county; thence northerly on the west line of Caledonia and Essex counties, to the north line of this state; thence west on the north line of this state, to the bounds begun at.

Essex and part of Orleans annexed to Caledonia county.

SEC. 2. *Provided nevertheless, and it is hereby further enacted*, That the county of Essex, and the following towns in the county Orleans, namely, Greensborough, Glover, Barton, Brownington, Salem and Derby, and the towns and gores lying east of those towns in said county of Orleans, and also the town of Craftsbury in said county, shall be and they are hereby annexed to the county of Caledonia, for the time being; and all the remaining towns and gores in said county of Orleans, shall be annexed to the county of Franklin, for the time being; and the said counties of Essex and Orleans, as annexed aforesaid, shall be, and hereby are declared to be, a part of the said counties of Caledonia and Franklin, for all intents and purposes whatever, until county courts shall be established by law, in the said counties of Essex and Orleans respectively, and no longer; any law to the contrary notwithstanding.

Part of Orleans annexed to Franklin county.

Passed March 2, 1797.

CHAPTER VII.

An ACT *regulating the office and duty of* Sheriff, High-Bailiff, *their reſpective* Deputies, *and* Conſtables.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont,* That there ſhall be appointed annually, at every ſtated ſeſſion of the Legiſlature, agreeable to the conſtitution, a ſheriff in each of the counties, organized, or which may hereafter be organized, who ſhall receive a commiſſion from the governor, certifying him to be duly elected or appointed as aforeſaid, and authoriſing him to execute ſaid office; and who, before he enters upon the execution of his office, ſhall become bound by way of recognizance, to the treaſurer of the county, of which he is ſheriff, before the chief judge of the county court; and in caſe of death, or abſence of the chief judge, before one of the aſſiſtant judges, with two or more ſufficient ſureties, freeholders within this ſtate, in the ſum of ten thouſand dollars, for the faithful diſcharge and performance of the duties of his office, and every part thereof; and ſhall alſo take the oath of office before the judge taking ſuch recognizance, which ſhall be certified on his ſaid commiſſion; and all acts and doings, of any ſheriff, before he ſhall have complied with the aforeſaid pre-requiſite, ſhall be null and void in law.

Sheriffs how appointed and commiſſioned

To be under bonds with ſureties.

And ſworn.

SEC. 2. *And it is hereby further enacted,* That every perſon being ſo commiſſioned, ſhall be accounted the lawful ſheriff of the county for which he is appointed, and ſhall have full power within his own county, to ſerve and execute all lawful writs, proceſſes and precepts to him directed, iſſuing from lawful authority, and do all other things pertain-

His power generally.

ing to the office and duty of ſheriff; and ſhall have power in his county to appoint ſuch number of deputies, as the judges of the county court in ſuch county, ſhall, from time to time, limit and direct; which deputies ſhall have power to ſerve all proceſſes, and to do all acts, generally, which the ſheriff is empowered or required by law, to do, and perform.—And all acts, doings, and returns of ſuch deputies, ſhall be ſigned by them reſpectively, as deputy ſheriff, and ſhall be taken and deemed as the act of the ſheriff appointing them: And the ſheriff ſhall in all things be amenable and reſponſible, for the conduct of his deputies in office, and may take bonds, or other ſufficient ſecurity, to indemnify him againſt the act or default of his deputy: And every deputy ſheriff ſhall, before he proceed in the execution of his office, cauſe his deputation, and oath of office certified thereon, to be recorded in the county clerk's office of the ſame county, and if the ſheriff ſhall before ſuch deputation expires, diſmiſs ſuch deputy, or revoke any ſuch deputation, ſuch revocation ſhall be recorded in ſuch county clerk's office. And all the acts and doings of any ſuch deputy ſheriff, before his deputation and oath of office ſhall be recorded as aforeſaid, ſhall be null and void in law.

May appoint deputies.

Their power.

Sheriffs reſponſible for the conduct of his deputies.

May take bonds.

Deputy ſheriff to be ſworn, and his deputation recorded by the county clerk.

Provided always, That no ſheriff ſhall be amenable, criminally, for the conduct of his deputy, other than for fines and amercements for neglect of duty.

Sheriffs not to be criminally accountable

SEC. 3. *And provided alſo, and it is hereby further enacted*, That the ſheriffs in their reſpective counties, ſhall have power on ſpecial occaſions, at the riſque of the plaintiff, to depute any meet perſon to ſerve any particular writ or proceſs, which deputation ſhall be entered on the back of ſuch writ or prooeſs;

May depute on ſpecial occaſions.

and ſhall alſo have power to depute ſome meet perſon, or perſons to ſerve warrants in criminal caſes, as alſo other precepts when either the intereſt of the community, or the exigency of the caſes may require it, any thing in this act to the contrary notwithſtanding.

And provided always, That when any perſon ſhall be deputed to ſerve a writ, or proceſs, on any ſpecial occaſion, as aforeſaid, and ſhall make oath before ſome juſtice of the peace, or in open court, that he truly and faithfully ſerved the ſame agreeably to his endorſement thereon, and that he did not fill up, make or alter ſaid writ or proceſs, and ſuch oath being certified thereon, by the authority adminiſtering the ſame, ſuch ſervice ſhall be good and valid in law.

The doings of ſuch deputy under oath, valid in law.

SEC. 4. *And it is hereby further enacted*, That the ſheriff of each county, ſhall have the cuſtody, rule, keeping and charge of the gaol or gaols in his county, and of the priſoners therein, and ſhall keep the ſame either by himſelf, or a deputy gaoler, for whoſe acts and doings he ſhall be reſponſible.

To have the cuſtody of gaols.

SEC. 5. *And it is hereby further enacted*, That each ſheriff, by himſelf or deputy, within his county, ſhall have power to preſerve the peace, and ſuppreſs with force and ſtrong hand, when the neceſſity of the caſe ſhall require it, all tumults, riots, routs, and other unlawful aſſemblies, and ſhall alſo have power to apprehend without warrant, all ſuch perſons as he may find ſo aſſembled in diſturbance of the peace, and cauſe them to appear before ſome juſtice of the peace, which juſtice after examination, if he ſhall ſee cauſe, may bind over ſuch offenders, to the next county court, in the county, in which the offence is committed, which court upon conviction of ſuch of-

To be conſervators of the peace

To ſuppreſs riots.

And apprehend without warrant, perſons unlawfully aſſembled.

ſenders, ſhall puniſh them and every of them according to law.

Sheriff & other officers for the preſervation of the peace &c. may require ſuitable aid.

SEC. 6. *And it is hereby further enacted*, That every ſheriff, and other officer, in the execution of his office, for the preſervation of the peace, or for apprehending or ſecuring any perſon or perſons, for violating the ſame, or for any other criminal matter or cauſe, be and he is hereby empowered to require ſuitable aid, and aſſiſtance in the execution of his office, and if any perſon, being of age and ability, when ſo required, ſhall neglect or refuſe to give ſuch aid and aſſiſtance, ſuch perſon on conviction thereof, before any court proper to try the ſame, ſhall pay a fine not exceeding thirty dollars, and coſts of proſecution, to and for the uſe of the county in which the offence is committed.

penalty of thoſe who neglect.

In caſe of great oppoſition may raiſe the militia.

SEC. 7. *And it is hereby further enacted*, That if great oppoſition ſhall be made againſt any ſheriff or deputy ſheriff, in executing any lawful writ or proceſs, ſuch ſheriff or deputy ſheriff is hereby empowered by and with the advice of two juſtices of the peace, one of whom ſhall be a councillor, judge of the ſupreme court of judicature, or judge of the county court in the ſame county, and ſuch other juſtice as may be preſent, to raiſe the militia of the county, or ſuch part thereof, as they may judge expedient, who ſhall aid and aſſiſt the ſaid ſheriff, or deputy ſheriff, in the execution of ſuch writ or precept, and if any perſon or perſons, who ſhall be in oppoſition as aforeſaid, ſhall be wounded or killed, the ſaid ſheriff or deputy ſheriff, and the militia, and every of them, ſhall be indemniſied and held guiltleſs, as is provided in the ſeventeenth ſection of an act entitled, "An act for the puniſhment of certain inferior crimes and

Indemniſied if any perſon be wounded or killed.

misdemeanors ;" and all military officers and soldiers are hereby required to obey such sheriff, or deputy sheriff's commands, in such cases, under the pains and penalties hereafter mentioned. And if any such officer or soldier belonging to this state, shall neglect or refuse to obey the orders of such sheriff, or deputy sheriff, under the regulations aforesaid, and be thereof convicted before any court proper to try the same, every such officer shall pay a fine not exceeding twenty dollars, with costs of prosecution, to the treasury of the county. And the expence incurred in suppressing such opposition, shall be paid by any one or all the persons convicted of such opposition, in such manner and proportion, as shall be ordered by the court, before whom the conviction shall be had, and if the person or persons so convicted, shall be unable to pay such expence, the same shall be paid out of the county treasury. And the wages of the officers, soldiers, and other persons, who shall assist the sheriff, or his deputy as aforesaid, shall be eighty cents per day, for a captain; fifty cents per day, for a subaltern; and thirty-four cents per day, for each private, or other person employed in such service, in addition to such subsistence as shall be allowed by the court.

Militia officers and soldiers to obey the sheriff.

Penalty for disobedience.

Expences how paid.

Wages of officers & soldiers.

SEC. 8. *And it is hereby further enacted*, That every sheriff shall, in the day time, have power to enter and search, houses, buildings, or other places in his county, in which there shall be any person or persons, for the apprehension of whom, in matters of delinquency, or of a criminal nature, he shall have a warrant or precept, from any proper authority, as also to search for any goods or chattels, stolen or purloined, in any houses, buildings, or other places, where such goods or chattels

Sheriffs may in the day time, search houses, &c.

are, or may be ſuppoſed to be lodged or ſecreted, by virtue of any legal precept, or warrant iſſued for that purpoſe by proper authority: And every perſon who ſhall refuſe ſuch ſheriff, or deputy ſheriff entrance into his houſe, building or other place, or threaten him if he do enter, or ſhall abuſe him, or his aſſiſtants, after he or they ſhall have entered, although by force, or ſhall prevent his making ſearch in either of the caſes aforeſaid, every ſuch perſon being duly convicted thereof, ſhall forfeit and pay a fine, not exceeding ſixty dollars, to and for the uſe of the county treaſury, in the county in which the offence ſhall be committed: And the ſheriff or deputy ſheriff ſhall not return that he cannot execute his warrant or precept.

Penalty for refuſing him entrance into houſes, &c.

SEC. 9. *And it is hereby further enacted*, That all conſtables in this ſtate, ſhall within their reſpective towns, have the ſame powers as are given to ſheriffs, and be under the ſame habilities, and ſubject to the ſame penalties, as ſheriffs in their reſpective counties; and every perſon oppoſing them in the execution of their office, ſhall be liable to the ſame pains and penalties, as before provided in this act.

Conſtables in towns to have the ſame powers, & under the ſame penalties as ſheriffs.

Provided always, That when any conſtable ſhall be commanded to apprehend or arreſt the body of any perſon, by a juſtice of the peace, he ſhall not do it without a warrant therefor in writing.

Not to arreſt the body without warrant.

SEC. 10. *And it is hereby further enacted*, That any perſon may demand of any ſheriff, deputy ſheriff, or conſtable to whom he may deliver any writ or proceſs, a receipt therefor under his hand, in which the ſum or thing in demand, the date of ſuch writ or proceſs, and of its delivery, ſhall be contained, and on his refuſal to execute ſuch receipt, others preſent

Sheriffs to give receipts for writs.

may ſet their hands as witneſſes to ſuch deliv-
To receive all writs, &c and execute the ſame.
ery, and all ſheriffs, deputy ſheriffs and conſtables ſhall receive all writs, at any times and places within their reſpective precincts (unleſs they can ſhow reaſonable cauſe to the contrary), and ſhall execute and return the ſame, agreeably to the directions therein given.—
Penalty for not executing or making a falſe or undue return.
And if any ſheriff, deputy ſheriff, high-bailiff, his deputy or conſtable ſhall wilfully refuſe, or neglect to ſerve any ſuch writ or proceſs, iſſuing from lawful authority, and delivered to him to ſerve and execute, or ſhall wilfully neglect to make return thereof, or ſhall make a falſe or undue return thereof, ſuch officer ſhall, on conviction before any court having cognizance thereof, pay a fine not exceeding one hundred dollars, according to the nature and aggravation of the offence, and the conſtable, ſheriff, or high bailiff, who, or whoſe duty, ſhall have ſo wilfully refuſed, or neglected, to ſerve ſuch writ, or to make return thereof, or ſhall have made a falſe or undue return as aforeſaid, ſhall pay to the party grieved, all damages thereby, in any way ſuſtained, with coſts, to be recovered by action on this ſtatute, before any court proper to try the ſame.

And all proceſſes ſerved by any ſheriff, deputy ſheriff, or conſtable, ſhall be by him returned to the court, or juſtice, to which they are made returnable, before the time ſet therein for the appearance of the party.

To pay creditors all monies collected on execution on demand.
SEC. 11. *And it is hereby further enacted*, That if any ſheriff, or conſtable ſhall neglect or refuſe, on demand made, to pay to the creditor in any execution, his agent or attorney, all ſuch ſums of money as the ſaid ſheriff, or conſtable ſhall have received, on ſuch execution, he ſhall forfeit and pay to the perſon to whoſe uſe he received ſuch money, fifteen

per cent. intereſt thereon, ſo long as he ſhall detain the ſame after demand made.

In caſes of neglect to pay 15 per cent. intereſt.

SEC. 12. *And it is hereby further enacted,* That no ſheriff, deputy ſheriff or conſtable ſhall be ſuffered to appear in any court, or before any juſtice of the peace, as attorney or council to any party, in any ſuit, nor ſhall any ſheriff, deputy ſheriff or conſtable be allowed to make any proceſs, or fill up any writ, declaration or complaint, or draw or make any plea, except in his own caſes, and all ſuch acts done by either of them, ſhall be void, and ſuch proceſs, writ, declaration or complaint ſhall be diſmiſſed, the plaintiff become nonſuited, and the defendant or reſpondent recover his coſts, any law, uſage, or cuſtom to the contrary notwithſtanding.

Not to appear as attorney or fill writs.

SEC. 13. *And it is hereby further enacted,* That if any perſon or perſons not, being a ſheriff, deputy ſheriff or conſtable, or other officer whole duty it is to keep the peace, or apprehend perſons for violating the ſame, ſhall falſely pretend to be any, or either of ſaid officers, for any purpoſe whatever, and ſhall preſume to act as ſuch, or to require any other perſon or perſons to aid or aſſiſt him in any matter or thing belonging to a ſheriff, or any ſuch other officer, ſo aſſumed, as aforeſaid, he ſhall upon conviction for any ſuch offence, forfeit and pay a fine not exceeding two hundred dollars, according to the nature, aggravation and circumſtances of the offence, at the diſcretion of the court before whom the conviction ſhall be had, one moiety of which fine ſhall be to, and for the uſe of the county, in which the offence is committed, and the other moiety to him or them who will ſue for and recover the ſame, in any court of competent juriſdiction.

Penalty for aſſuming or acting as a ſheriff, conſtable, or other officer.

Sheriff reſigning or removed from office, to execute all precepts in his hands

SEC. 14. *And it is hereby further enacted*, That when any ſheriff, deputy ſheriff, or conſtable ſhall be removed from, or reſign his office, he ſhall and may execute all writs and precepts in his hands at the time of ſuch removal or reſignation.

To receive delinquents from neighboring ſtates.

SEC. 15. *And it is hereby further enacted*, That it ſhall be the duty of every ſheriff, deputy ſheriff and conſtable within their reſpective precincts, to receive every inhabitant of this ſtate, charged with the commiſſion of any crime, who may be tendered to him by a ſheriff, deputy ſheriff, or other proper officer belonging to any of the neighboring ſtates, who ſhall have a warrant from proper authority, to deliver ſuch inhabitant, and him or her forthwith cauſe to appear before ſome juſtice of the peace of this ſtate, to be examined in the premiſes, as the caſe may require.

No fees to be allowed on *non eſt inventus*.

SEC. 16. *And it is hereby further enacted*, That no officer ſhall be allowed any fees for a *non eſt inventus* return, on any writ, precept, or execution, delivered to him to ſerve and return.

High bailiffs how to be appointed.

SEC. 17. *And it is hereby further enacted*, That there ſhall be appointed annually, at the ſtated ſeſſion of the Legiſlature, in the ſame manner as ſheriffs are appointed, a high-bailiff, in each organized county in this ſtate, to begin and continue his office the ſame as ſheriffs of the ſeveral counties ; whoſe duty it ſhall be to ſerve all writs and proceſſes, for and againſt the ſheriff of the county—And when any writ or proceſs, iſſuing from proper authority, ſhall be directed to the ſaid high-bailiff againſt the ſheriff of the county, it ſhall and may be lawful for the ſaid high-bailiff to take and confine in the gaol in the ſame coun-

Office & duty.

ty, the body of any ſuch ſheriff of the county, and while ſuch ſheriff ſhall be confined on any ſuch proceſs, or in caſe it ſhall ſo happen that the office of ſheriff ſhall become vacant, by death, removal, or any other way, the high-bailiff ſhall have all the powers of the ſheriff, in keeping the peace, ſuppreſſing riots, ſerving writs, precepts, and other proceſſes, and ſhall have the ſame power in ſafe-keeping the gaol, or gaols, in ſuch county, admitting to bail, and of aſſigning bail-bonds, as the ſheriff of ſuch county has by law, until ſuch ſheriff ſhall be releaſed from ſuch confinement, or until the vacancy ſhall be filled according to law; and ſhall be under the ſame habilities, and ſubject to the ſame penalties, as is provided by law in caſe of ſheriffs—And the perſon ſo appointed high-bailiff, ſhall before he enter upon the execution of his office, be commiſſioned, and ſworn, and give bonds in the ſame manner, as is directed in caſe of ſheriffs: and ſhall be allowed the ſame fees for ſervices, as is by law allowed to ſheriffs; and ſhall alſo have power to appoint ſuch number of deputies and gaolers, when neceſſary, as the judges of the county court ſhall adviſe, who ſhall have the ſame power, and ſhall receive a deputation, and be ſworn in the ſame manner, as is directed in caſes of deputy ſheriffs—And the ſaid high-bailiffs ſhall be amenable and reſponſible, for the neglect, default, ability and faithfulneſs of their deputies, and gaolers, in the ſame manner as ſheriffs are amenable and accountable for their deputies and gaolers.

To be commiſſioned, ſworn, & under bonds.

Fees.

May appoint deputies, and reſponſible for their default.

Paſſed March 6, 1797.

CHAPTER VIII.

An ACT *directing the levying and ſerving executions.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That when a writ of execution ſhall be iſſued, on any judgment recovered before any court within this ſtate, the ſheriff or other officer to whom the ſame is directed, ſhall repair to the debtor's uſual place of abode, if within his precinct, and demand of ſuch debtor, the ſum in debt, damages, or coſts contained in ſuch execution, with all legal charges for ſerving the ſame, and upon ſuch debtor's refuſal or neglect to pay ſuch ſum, with the coſts as aforeſaid, the officer ſhall levy the ſame upon the proper goods or chattels of ſuch debtor, or ſuch as ſhall be ſhown him by the creditor or creditors. *Always excepting* one cow, and ſuch ſuitable apparel, bedding, tools, arms and articles of houſhold furniture, as may be neceſſary for upholding life; but not on ſuch goods as laſt enumerated, unleſs turned out by the debtor to ſatisfy ſuch execution. And any ſuch goods or chattels, ſhall be levied upon as aforeſaid, ſhall be ſafely kept by the officer, at the expence of the debtor, until they ſhall be ſold as herein after directed; or the debtor ſhall otherwiſe ſatisfy the execution. And the officer ſhall forthwith advertiſe the ſame by ſetting up a notification, wherein he ſhall enumerate the goods or chattels ſo levied upon, on the ſign-poſt of the town in which they were taken (or at ſuch other place as may be agreed upon by the officer and debtor) and that the goods or chattels ſo poſted, are to be ſold at public vendue, at the ſaid ſign-poſt (or at ſuch other public place as the

Executions how ſerved.

To be levied on goods & chattels.

Except one cow and neceſſary apparel

To be adverti-ſed before ſold.

officer ſhall think moſt advantageous to the debtor), at the time and place therein mentioned, which ſhall not be leſs than fourteen days, from the time of ſetting up ſuch notification. And if, within the time ſuch goods or chattels ſhall have been ſo poſted, the owner ſhall not redeem the ſame, by otherwiſe ſatisfying the execution, and the officer's coſts and charges thereon, ſuch goods or chattels ſhall be ſold at public vendue to the higheſt bidder, at the place of ſale, or ſuch part thereof, as ſhall be ſufficient to ſatisfy the execution, with legal coſts thereon. And the monies ariſing upon ſuch ſale, ſhall be applied to the payment of the charges, and the ſatisfaction of the execution. And the officer ſhall return the overplus, if any there be, to the debtor upon demand thereof made: And the officer ſerving the execution, ſhall make return thereof, with his doings thereon, particularly deſcribing the goods or chattels taken and ſold, and the ſum for which ſuch article is ſtruck off. And if any officer ſhall be guilty of any fraud or colluſion, in the ſale, or the return as before directed, he ſhall be liable to the debtor, to pay him treble damages for the ſum ſo defrauded, to be recovered by action on the caſe with coſts.

To be ſold.

Overplus to be returned.

Officers guilty of fraud, to pay treble damages.

SEC. 2. *And it is hereby further enacted*, That when moveable or perſonal eſtate, of the debtor cannot be found, ſufficient to ſatisfy the debt, damages or coſts in the execution, and the legal fees thereon, the officer may take the body of the debtor, and him or her commit to the keeper of the common gaol in the county in which the execution ſhall be ſerved, and the debtor ſhall there remain, until he or ſhe ſhall pay the debt, damages or coſts, for which he or ſhe is committed, with the of-

When goods & chattels, cannot be found the body, may be taken and committed to gaol.

Copy of execution to be left with the keeper of the gaol.

ficer's and priſon keeper's fees thereon, or be otherwiſe diſcharged by order of law—and every officer who ſhall commit any perſon to gaol by virtue of any writ, or warrant of diſtreſs, or execution, ſhall deliver a copy of ſuch writ, warrant, or execution, and of his return thereon ſigned by ſuch officer to the keeper of the gaol, which copy ſo delivered and ſigned, ſhall be a ſufficient warrant or order to the keeper of the gaol, to receive ſuch perſon and him or her hold in ſafe cuſtody, until diſcharged by order of law.

Real eſtate liable to be taken in execution.

SEC. 3. *And it is hereby further enacted*, That all houſes, lands and tenements, belonging to any perſon in his, or her own right, in fee or for his own life, or the life of another, paying no rents for the ſame, ſhall ſtand charged with all the juſt debts and demands owing by ſuch perſon, as well as his perſonal eſtate, and ſhall be liable to be taken in execution

Execution levied on real eſtate, to be recorded in town-clerk's office, &c.

for the ſame, at the election of the creditor, when the debtor, his agent or attorney, ſhall not expoſe and tender perſonal eſtate ſufficient to ſatisfy the execution, and all legal charges. And all executions extended and levied upon any houſes, lands, or tenements as aforeſaid, with the return of the officer thereon, being recorded in the records of lands of the town in which ſuch houſes, lands or tenements are ſituate, or in the office wherein deeds, reſpecting the ſame, are required by law to be recorded, and alſo returned into the office of the clerk of the court or juſtice of the peace from which ſuch execution iſſued, and there recorded, ſhall as againſt ſuch debtor, his heirs and aſſigns, make a good title to the party for whom ſuch eſtate was taken, his heirs and aſſigns forever.

And in the clerk's office who iſſued the execution

SEC. 4. *And it is hereby further enacted*, That when any execution, ſhall be extended

on any real eſtate, the ſame ſhall be appraiſed by three judicious and diſintereſted freeholders, of the vicinity, in the town or place in which ſuch eſtate lies, or if the town, or place be a party, or there be no freeholders living therein, then of the next adjoining town, or towns, one of whom may be choſen by the debtor or debtors, one by the creditor or creditors, their agents or attornies, and the other may be mutually choſen by the parties, their agents or attornies. And if they do not agree on a third perſon, or if either or both the parties, their agents or attornies, neglect to chuſe, the officer ſerving the execution, may apply to ſome juſtice of the peace of the county, in which the eſtate lies, who by law may judge between the parties in civil cauſes, who ſhall appoint one or more appraiſers, as the caſe may require; which appraiſers, after being duly ſworn by ſuch officer, agreeably to law, ſhall appraiſe ſuch eſtate as ſhall be ſhown them, at its true and juſt value in money, to ſatisfy the ſame execution, with all fees. And the officer ſhall ſet out ſuch eſtate ſo by them appraiſed, by proper metes and bounds, or deſcribe the ſame with as much preciſion, as the nature and ſituation thereof will admit.

Eſtate how appraiſed.

SEC. 5. *And it is hereby further enacted*, That when any execution ſhall be extended on any houſes, lands or tenements, in part or in whole, and the ſame ſhall be appraiſed, and ſet off to ſatisfy ſuch execution, it ſhall and may be lawful for the perſon, his heirs or aſſigns, his executors or adminiſtrators whoſe eſtate is ſo appraiſed or ſet off, within the term of ſix months, and not after, from the time ſuch execution was extended on ſuch eſtate, to tender and pay unto the clerk of the court or juſtice of the peace, by whom ſuch execution was iſſued, and in whoſe office the ſame is di-

Real eſtate taken on execution may be redeemed in ſix months, and not after.

rected by law to be recorded, the full ſums of debt, damages, and coſts, mentioned in ſaid execution, and the officer's fees thereon, together with intereſt thereon, at the rate of *twelve per cent per annum.* And ſuch clerk or juſtice of the peace ſhall receive the ſame, and deliver a certificate thereof to the perſon, or perſons making ſuch tender, or payment; which certificate, being recorded in the ſeveral offices, directed by law for the record of executions extended upon real eſtate, ſhall forever defeat any title to ſaid eſtate, which may have been derived by virtue of the extending of ſuch execution, any law uſage or cuſtom to the contrary notwithſtanding. And the clerk or juſtice receiving ſuch tender or payment, ſhall be entitled to receive *one per cent.* commiſſion before he ſhall be obliged to make ſuch certificate.

Provided always, That if the juſtice of the peace who iſſued ſuch execution, ſhall be dead, out of office, or removed from the county at the time the ſame is returnable, or at the time ſuch tender or payment ought to be made, ſuch execution ſhall be returned, and ſuch tender or payment ſhall be made, to the clerk of the county court, in which ſuch juſtice lived, in the ſame manner as is before directed.

Perſons to whom real eſtate is ſet off, not to take poſſeſſion till ſix months have elapſed.

SEC. 6. *And it is hereby further enacted,* That no perſon or perſons to whom any houſes, lands or tenements ſhall be appraiſed, and ſet off as aforeſaid, ſhall enter and take poſſeſſion of the ſame, until ſix months after the execution ſhall have been extended. And if ſuch eſtate ſhall not be redeemed in manner as above provided, within that time, the perſon or perſons to whom ſuch eſtate ſhall have been appraiſed as aforeſaid, are hereby authoriſed and empowered, to enter and take poſſeſſion, without giving any previous notice to the perſon or perſons in poſſeſſion, in as full and

ample a manner as though ſeiſin and poſſeſſion of the ſame had been delivered by the officer, who ſerved ſuch execution; or could have been given by the perſon in actual poſſeſſion, any law uſage or cuſtom to the contrary notwithſtanding. And that the debtor or debtors, or their legal repreſentatives, remaining in poſſeſſion of any improved or tenantable eſtate ſo as aforeſaid appraiſed or ſet off, who ſhall not redeem the ſame as above provided, ſhall be reſponſible to the creditor, or creditors, in ſuch execution, or their legal repreſentatives, for the rents, profits and improvements of ſuch eſtate, for and during the period, he, ſhe or they may have continued in poſſeſſion thereof; the value of which rents, profits, and improvements, unleſs the parties ſhall otherwiſe agree, ſhall be appraiſed by three judicious and diſintereſted freeholders, at the expence of ſuch debtor or debtors, to be appointed on the requeſt of either party, as before directed in this act in the appraiſal of real eſtate on execution, who ſhall be duly ſworn faithfully and impartially to judge between the parties. The value of which rents, profits and improvements, ſhall be certified under the hands of ſaid appraiſers, and delivered to the parties. And the tender of the ſum which ſhall be ſo certified, being made and kept good, ſhall be a ſufficient bar, to any action which may be brought for the rents, profits and improvements of any ſuch eſtate. And the defendant in any action as aforeſaid, by virtue of ſuch tender being kept good in court, ſhall recover his coſts. And if ſuch debtor or debtors, ſhall refuſe or neglect to pay ſuch ſum, after demand thereof made, the creditor or creditors, ſhall have a right to an action on the caſe, founded on this ſtatute, to

Debtors not redeeming real eſtate to be accountable for rents and profits while in poſſeſſion.

The value thereof how aſcertained.

recover the ſame ſum, with additional damages and coſts, in any court of competent juriſdiction.

Eſtates held in joint tenancy, &c. liable to be taken on execution.

SEC. 7. *And it is hereby further enacted*, That when real eſtate of the debtor or debtors, ſhall be held in joint tenancy, coparcenary, or tenancy in common, with the real eſtate of other perſons, then the ſaid officer may extend execution on ſuch debtor or debtor's real eſtate, or part thereof, held as aforeſaid, deſcribing the ſame with as much preciſion, as the nature and ſituation thereof will admit, which execution being in all things ſerved, returned and recorded as before provided in this act, ſhall make as good a title to the creditor, or creditors, his, her or their heirs and aſſigns, as the debtor or debtors, had therein. And ſaid eſtate ſhall be ſubject to the equity of redemption, and the creditor or creditors entitled to rent, as before preſcribed relative to other real eſtate.

How deſcribed.

Executions may be levied on rents, &c.

SEC. 8. *And it is hereby further enacted*, That the rents, iſſues, and profits of lands and tenements, leaſed for life, or years, ſhall be liable to be taken by execution, by any creditor of the leſſor, of the perſon or perſons who have right to receive ſuch rents, iſſues and profits: And the officer having ſuch execution, ſhall extend the ſame on ſuch rents, iſſues and profits, and give ſeiſin thereof to the creditor or creditors, his, her or their agents or attornies, and ſhall cauſe the tenant or tenants thereof, to attorn and become tenant or tenants of ſuch creditor, or creditors, to pay rents to him, her or them accordingly. And upon refuſal thereof, to turn ſuch tenant or tenants out of the poſſeſſion thereof, and give livery, ſeiſin and poſſeſſion of the ſame, to ſuch creditor or creditors, to hold and enjoy ſuch lands and tenements, till ſuch execution, and the coſts

thereon, with legal intereſt, be fully ſatisfied and paid.

Provided always, That it ſhall and may be lawful for ſuch debtor or debtors, his, her, or their agent, or attorney, executor or adminiſtrator, at any time before ſuch execution, coſts and intereſt be fully ſatisfied, to tender and pay unto ſuch creditor or creditors, or his, her or their legal repreſentatives, the full amount of the execution, coſts and intereſts, or ſuch part thereof as may remain due, and the creditor or creditors ſhall be obliged to accept the ſame, and ſurrender to ſuch debtor or debtors, his, her, or their agent, executor or adminiſtrator, ſuch lands and tenements, and deliver quiet and peaceable poſſeſſion thereof, any law, uſage or cuſtom to the contrary notwithſtanding.

When levied by miſtake upon property not the debtor's, remedy for.

SEC. 9. *And it is hereby further enacted,* That when an execution, iſſued on any judgment rendered in this ſtate, ſhall be extended or levied on any eſtate, whether real or perſonal, for the purpoſe of ſatisfying ſuch execution, and after the extending or levying thereof, it ſhall appear that ſuch eſtate did not belong to the debtor, then, and in every ſuch caſe, upon the application of the creditor or creditors, to one of the judges, or clerk of the court, or juſtice from whom ſuch execution iſſued, ſuch judge, clerk, or juſtice may order a writ of *ſcire facias* to iſſue againſt ſuch debtor, requiring him, or her to appear before ſaid court, or juſtice, and ſhow cauſe, if any he or ſhe have, why an *alias execution* ſhould not iſſue upon ſuch judgment. And if ſuch debtor, being duly ſummoned, ſhall neglect to appear in obedience to ſuch writ, or apearing, ſhall not ſhow ſufficient cauſe, why an *alias execution* ſhould not iſſue againſt him, or her, the court or juſtice ſhall grant an *alias*

Scire facias may iſſue.

Alias execution may iſſue.

execution againſt ſuch debtor, including the ſum for which the former execution was iſſued, with the legal intereſt on the ſame, together with the additional coſts on the *ſcire facias*, with the coſts of extending or levying the former execution, in ſuch caſes as it ſhall appear that ſuch eſtate was turned out by the debtor. But when it ſhall appear that the creditor or creditors turned out the eſtate ſo failing, then, and in ſuch caſes, the coſts for extending or levying, and the coſts on the former execution, ſhall not be recoverable on ſuch *ſcire facias*, and the eſtate ſo extended or levied upon ſhall be wholly diſcharged.

When judgment exceeds fourteen dollars, ſcire facias to be brought before a county court.

Provided always, That in all caſes, when the judgment rendered by the juſtice of the peace on which the execution iſſued, exceeds fourteen dollars, ſuch writ of *ſcire facias*, ſhall be brought before the county court of the ſame county, where ſuch judgment ſhall have been obtained; as alſo in all caſes where the juſtice who rendered ſuch judgment ſhall be dead, out of office or removed from the county, at the time of bringing ſuch *ſcire facias*.

Day, month, and year of receiving an execution to be indorſed on by the officer.

SEC. 10. *And it is hereby further enacted*, That every ſheriff, conſtable, or other officer, to whom any execution ſhall be delivered, upon the receipt of the ſame, ſhall, without fee, endorſe upon the back thereof, the day of the month and year, when he received the ſame—And if two or more executions ſhall be delivered againſt the ſame perſon, that which was firſt delivered, ſhall be firſt ſatisfied.

Execution firſt delivered to be firſt ſerved.

Property taken by execution where the ownerſhip is doubtful,

SEC. 11. *And it is hereby further enacted*, That if any ſheriff, conſtable or other officer, ſhall levy an execution on property, and a doubt ſhall ariſe whether the right of ſuch property be in the defendant, ſuch officer may apply to the plaintiff, his attorney of record, or agent, for a writing of indemnification, with

sufficient surety for the sale of the property seised, which if the plaintiff, his attorney, or agent refuses, or fails to make and execute, within a reasonable time after such application, the sheriff or other officer, shall be justified in delivering up such property to the party from whose possession the same was taken; and may take other property, or the body of the debtor, and for want thereof, may return a *non est inventus*.

the Plaintiff to indemnify the officer.

SEC. 12. *And it is hereby further enacted*, That when any execution shall be delivered to the sheriff, constable, or other officer, of any other county than that in which the creditor resides, such creditor, or his attorney of record shall name some person, in the county in which the execution is to be levied, to be the agent of such creditor, for the particular purpose of receiving the money on such execution, and for giving unto, and receiving from the sheriff, constable or other officer, any notices which may be necessary, relating thereto, and of payments made. And notices given to such agent shall be as effectual as if made, or given to the creditor. And if any creditor, or his attorney of record, shall fail to appoint such agent, no judgment shall be entered against the sheriff, constable or other officer, for the non-payment of the money mentioned in such execution, unless a demand thereof shall have been first made of such sheriff, constable or other officer, in his county, by the creditor, or some other person having a written order from him—nor, in case of failure in appointing such agent, shall the sheriff, constable, or other officer, or prisoner, be obliged to give notice previous to the discharge of such prisoner, or upon his taking the oath of an insolvent debtor.

Plaintiff in execution to name an agent in certain cases.

Executions in behalf of the ſtate how to be iſſued.

SEC. 13. *And it is hereby further enacted*, That upon judgments already recovered, which remain unſatisfied, or which may hereafter be recovered in the name and for the uſe and benefit of this ſtate, for any ſum or ſums of money in any of the courts of law in this ſtate, execution, reciting ſuch judgments ſhall iſſue thereon, which ſhall be directed to ſuch officer, or officers, as writs of execution are by law to be directed, who ſhall be thereby directed to levy the monies mentioned and expreſſed in ſuch execution, of the goods, chattels or eſtate of ſuch debtor or debtors, and for want thereof, on his, her, or their body or bodies and to commit him, her, or them, unto the common gaol—And in all ſuch caſes the ſaid ſum or ſums of money mentioned and expreſſed in ſuch execution (where the ſame can be done), ſhall be ſatisfied out of ſuch goods or chattels.

To be levied on goods and chattels.

Proceedings on, when real eſtate is taken.

SEC. 14. *And it is hereby further enacted*, That the officer ſerving ſuch execution when real eſtate ſhall be taken as aforeſaid, ſhall give public notice, that the ſame will be ſold at public vendue, mentioning the time and place of ſale, by poſting up notifications thereof, in two or more public places, in the town or place in which the real eſtate lies, if the ſame be inhabited, thirty days before the time of ſale, and alſo in two or more public places in two adjoining towns, and when the ſum of ſuch execution, levied on real eſtate as aforeſaid, ſhall amount to two hundred dollars, the officer executing the ſame, ſhall in addition to the notification aforeſaid, cauſe an advertiſement of the time and place of ſuch ſale, to be publiſhed in ſome public newſpaper printed in the county in which ſuch real eſtate lies, three weeks ſucceſſively before the day of ſale, if any ſuch newſpaper ſhall be there

printed; but if not, then ſuch officer ſhall cauſe advertiſement in manner aforeſaid, to be publiſhed in a newſpaper printed in the ſtate, the neareſt to the county in which ſuch land lies. And in caſe the eſtate notified for ſale as aforeſaid, ſhall not be diſpoſed of at the time and place appointed, the officer ſhall adjourn the vendue, not exceeding three days, and ſo from time to time, until the ſale ſhall be completed.

Officer to execute deed.

SEC. 15. *And it is hereby further enacted*, That the officer levying ſuch execution, ſhall, in his ſaid capacity, make, acknowledge, and deliver to the higheſt bidder, good and ſufficient deed or deeds of any real eſtate ſold as aforeſaid, which being recorded in the proper office, or offices, ſhall be as effectual, to all intents and purpoſes, to convey the debtor's title in ſuch real eſtate, to the purchaſer, his heirs and aſſigns, as if the ſame had been executed by the debtor himſelf.

To be recorded.

Debtor may redeem.

SEC. 16. *Provided always, and it is hereby further enacted*, That every ſuch debtor, his heirs, executors, or aſſigns, ſhall have the ſame liberty to redeem ſuch real eſtate, as is in this act before provided.

Paſſed March 7, 1797.

CHAPTER IX.

An ACT *for the puniſhment of certain capital and other high crimes and miſdemeanors.*

Treaſon how puniſhed.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That if any perſon or perſons, owing allegiance to this ſtate, ſhall levy war, or conſpire to levy war againſt the ſame; or ſhall in any way within this ſtate, or elſwhere, give

aid, and comfort to the enemies of this ſtate, and ſhall be thereof convicted, before the ſupreme court of judicature, either on confeſſion in open court; or on the teſtimony of two witneſſes, to the ſame overt act of treaſon, of which ſuch perſon or perſons, is or are indicted, ſuch perſon or perſons, ſhall be adjudged guilty of treaſon againſt this ſtate, and ſhall ſuffer death.

Miſpriſion of treaſon how puniſhed.

SEC. 2. *And it is hereby further enacted*, That if any perſon, or perſons, knowing any ſuch treaſon to have been committed, or having knowledge of the intent of any perſon or perſons to commit any ſuch treaſon, ſhall not within fourteen days from the time of his having ſuch knowledge, give information thereof to the governor of this ſtate, ſome of the judges of the ſupreme court of judicature, or ſome juſtice of the peace, ſuch perſon or perſons, on conviction before the ſupreme court of judicature, ſhall be adjudged guilty of miſpriſion of treaſon, and ſhall be impriſoned and confined to hard labor not exceeding ſeven years, and fined not exceeding two thouſand dollars.

Murder how puniſhed.

SEC. 3. *And it is hereby further enacted*, That if any perſon ſhall commit murder, or the wilful killing of any perſon, with malice prepenſe, or ſhall ſlay or kill any perſon by guile, either by poiſoning or ſuch other deteſtable practices, ſuch perſon on conviction thereof, before the ſupreme court of judicature, ſhall ſuffer death.

Falſe witneſs how puniſhed.

SEC. 4. *And it is hereby further enacted*, that if any perſon ſhall bear falſe witneſs, wilfully and of purpoſe to take away any perſon's life, and the life of any perſon be taken away in conſequence of ſuch falſe witneſs, the perſon ſo offending, on conviction thereof before the ſupreme court of judicature, ſhall ſuffer death.—But if no perſon's life ſhall be taken in conſe-

quence of such false witness, the offender on conviction as aforesaid, shall be punished as in this act is hereafter provided for the punishment of manslaughter.

Murder of bastard children.

SEC. 5. *And it is hereby further enacted*, That if any woman shall endeavor, privately, to conceal the death of any issue of her body (which if born alive, would by law be a bastard) so that it may not be discovered, whether it was born alive or not, or whether it was murdered or not, in every such case, if any probable presumptive evidence shall appear that such issue was born alive, and came to its death, by the neglect, violence, or procurement of the mother, such mother so offending, shall be deemed guilty of murder, and on conviction thereof, before the supreme court of judicature, shall suffer death.

Arson with death how punished.

SEC. 6. *And it is hereby further enacted*, That if any person shall wilfully and maliciously burn the dwelling house of another, any out building adjoining thereto, or any other building, by means of which any person shall suffer death, or be injured in his or her body, or members, such offender on conviction thereof before the supreme court of judicature, shall suffer death.

Arson without death how punished.

SEC. 7. *And it is hereby further enacted*, That if any person shall wilfully and maliciously, burn the dwelling house of another, or any out building adjoining thereto, or any other building; or if any person shall wilfully and maliciously burn any barn, ware-house, shop, mill, malt-house, distillery, out-house, any meeting-house, court-house, school-house, or any other building, erected for public or private use; or any vessel, cutter, or boat, used on the rivers or lakes in this state; or if any person shall wilfully and maliciously burn any stacks of corn, hay or grain; the person so offending in either of the cases aforesaid, on

conviction thereof, before the ſupreme court of judicature, ſhall be ſentenced to ſet in the pillory, whipped, impriſoned, and confined to hard labor not exceeding ſeven years, bound to good behavior, or fined a ſum not exceeding three thouſand dollars, or any or all the foregoing puniſhments, according to the nature and aggravation of the offence.

SEC. 8. *And it is hereby further enacted*, That if any perſon ſhall commit manſlaughter, and be thereof convicted, before the ſupreme court of judicature, he ſhall be ſentenced to ſtand in the pillory, or be whipped not exceeding one hundred ſtripes, impriſoned, or confined to hard labor, not exceeding ten years, bound to good behavior, and fined not exceeding three thouſand dollars, or any or all the above puniſhments according to the nature and aggravation of the offence.

Manſlaughter how puniſhed.

Proviſo. *Provided nevertheleſs*, That if any perſon ſhall kill another in the juſt and neceſſary defence of his own, life, or the life of his wife, child, parent, brother ſiſter, maſter, miſtreſs, or ſervant; or if any perſon ſhall kill another, attempting to murder, or to commit rape, burglary, or robbery, with force and violence; or if an officer ſhall kill any perſon in ſuppreſſing any oppoſition againſt him, in the juſt and neceſſary diſcharge of his duty, ſuch perſons, reſpectively, ſhall be holden guiltleſs.

SEC. 9. *And it is hereby further enacted*, That if any perſon ſhall wiltully and maliciouſly cut out, or diſable the tongue, put out the eye, or eyes, or cut off all or any part of the privy members of any perſon, or ſhall aid or aſſiſt therein, ſuch perſon on conviction thereof, before the ſupreme court of judicature, ſhall pay a fine not exceeding three thouſand dollars, and be impriſoned and confined to hard labor during life.

Cutting out the tongue, putting out the eye &c. how puniſhed.

SEC. 10. *And it is hereby further enacted,* That if any man shall ravish, or carnally know any woman, maid, or damsel of the age of eleven years, committing carnal copulation with her by force, against her will, and being thereof convicted before the supreme court of judicature, he shall be fined not exceeding one thousand dollars, and be imprisoned and confined to hard labor, a term not exceeding ten years. Rape how punished.

SEC. 11. *And it is hereby further enacted,* That if any person over the age of fifteen years, shall unlawfully and carnally know and abuse any woman child, under the age of eleven years, with her will, or against her will, and being thereof convicted before the supreme court of judicature, he shall suffer the same punishment, as is directed in the tenth section of this act. Unlawfully knowing a child under 11 years, how punished.

SEC. 12. *And it is hereby further enacted,* That if any person shall make an assault upon the body of any woman, maid, damsel, or woman child, with an intent to ravish her, and being thereof convicted before the supreme court of judicature, he shall be severely punished by fine, imprisonment, or such other infamous punishment, as said court shall adjudge, according to the nature and aggravation of the offence. Assault with an intent to ravish, how punished.

SEC. 13. *And it is hereby further enacted,* That if any person shall in the night time, burglariously break and enter any dwelling house, store, or shop for merchandize, or work shop, with intent to kill, rob, steal, commit rape, or to do, or perpetrate any other high crime or misdemeanor, the person so offending, on conviction thereof before the supreme court of judicature, shall be punished by whipping not exceeding one hundred stripes, and be imprisoned and confined to hard la- Burglary how punished.

bor not exceeding twelve years, and pay a fine not exceeding three thouſand dollars; or any or all the foregoing puniſhments, according to the nature and aggravation of the offence, and ſhall thereafter be diſabled from giving evidence, or credit, in any caſe or caſes whatſoever.

And any perſon on a ſecond conviction of the aforeſaid offence, ſhall be impriſoned and confined to hard labor during life.

Robbery. Now puniſhed.

SEC. 14. *And it is hereby further enacted*, That if any perſon ſhall feloniouſly aſſault, rob, and take from another perſon any money, goods, or chattels, or other property, that may be the ſubject of theft, the perſon ſo offending, on conviction thereof before the ſupreme court of judicature, ſhall be puniſhed as is directed in caſe of burglary, and be liable to the ſame diſabilities; and on a ſecond conviction ſhall be ſubject to the ſame puniſhment as in caſe of burglary.

Aſſault with an intent to commit murder or robbery, how puniſhed.

And if any perſon ſhall make an aſſault upon any other perſon with intent to commit murder or robbery, the perſon ſo offending and being thereof convicted, before the ſupreme court of judicature, ſhall pay a fine not exceeding eight hundred dollars and may be impriſoned and kept to labor for a term not exceeding ten years, and ſhall give bonds with ſufficient ſureties, for his or her good behaviour in ſuch ſum as the court ſhall direct.

Perjury how puniſhed.

SEC. 15. *And it is hereby further enacted*, That if any perſon ſhall knowingly, willfully, and corruptly commit perjury, in any cauſe or matter pending before any court of law, or equity, auditors, referees, or arbitrators, or in any other caſe, in which an oath or affirmation is or may be adminiſtered, by direction of law, ſuch perſon on conviction thereof, before the ſupreme court of judicature, ſhall be

punished by standing in the pillory for the space of two hours, in the county town of the county in which the offence shall be committed, pay a fine not exceeding one thousand dollars, and suffer imprisonment without bail or mainprize, for a term not exceeding six months, or a part or all of the aforesaid punishments, at the discretion of said court, and shall thereafter be discredited and disabled from being sworn or giving evidence, or verdict, in any case whatever, until judgment on such conviction be reversed.

Treble damages recoverable.

And the person so convicted shall forfeit and pay treble damages to the party aggrieved by such offence, to be recovered by an action brought on this statute.

Subornation of perjury how punished.

SEC. 16. *And it is hereby further enacted*, That if any person shall unlawfully and corruptly procure any witness, or witnesses, by letters, rewards, promises, or by any other sinister or unlawful labor, or means, whatever, to commit wilful and corrupt perjury, in any cause or matter pending before any court of law or equity, auditors, referees, or arbitrators, or in any other case, such person, on conviction thereof, before the supreme court of judicature, shall suffer the same punishment, penalties and forfeitures, and be subject to the same disabilities in all respects, as is provided in the last preceding section.

In prosecutions for perjury, it is sufficient to set forth the substance of the offence.

SEC. 17. *And it is hereby further enacted*, That in every presentment or indictment, to be prosecuted against any person for wilful and corrupt perjury, or subornation of perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, and before whom the oath, or affirmation was taken, averring such court, or person, or persons to have a competent authority to administer the same, together with

the proper averment, or averments, to falsify the matter, or matters, in which the perjury or perjuries is or are assigned, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding, either in law or equity, other than as aforesaid, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed.

Forgery how punished.

SEC. 18. *And it is hereby further enacted*, That if any person shall wittingly, falsely and deceitfully, forge or alter, or willingly, falsely and deceitfully cause to be forged, or altered, or procure, aid, or counsel, the forging or altering any matter of record, any writ, process or other proceedings, in the courts, or course of justice in this state, any deed of conveyance, last will and testament, obligation or writing sealed, any promissory note, bill of exchange, order, acceptance, assignment or endorsement on them, any acquitance or receipt for money, goods or other things, or any warrant, order or requeit for the payment of money, or the delivery of goods, or chattels of any kind, any certificate or accountable receipt for money, or other thing; any lottery ticket, or any evidence, or assurance of money, or other thing, whatever, with intent to defraud any person, or if any person shall utter or publish as true, any of the above false, forged, altered and counterfeited deeds, and other matters or instruments, as above specified, or shall in any wise be aiding or assisting therein, with intent to deceive, or defraud any person, the person so offending, on conviction thereof, before the supreme court of judicature, shall be punished by sitting in the pillory, imprisonment not exceeding three years, and pay a fine not exceeding two thousand dollars, or a part or all the aforesaid punishments, accord-

ing to the nature and aggravation of the offence; and shall thereafter be disabled from giving evidence, or verdict, in any cause or case whatever—And the person so convicted, shall forfeit and pay treble damages, to the party aggrieved, by such offence, to be recovered by action brought on this statute. Treble damages.

SEC. 19. *And it is hereby further enacted*, That if any person shall hereafter steal any horse or horses, or any horse kind, on conviction thereof before the supreme court of judicature, shall be whipped not exceeding one hundred stripes, and be imprisoned and confined to hard labor not exceeding seven years, and be further punished by fine not exceeding three hundred dollars; and the court before whom the conviction is had, shall award to the party from whom such horse or horses was or were stolen, *treble* demages, and such party is hereby empowered to assign such convict in service to satisfy the same, and any person to whom such convict is assigned may in any manner without cruelty, chain, otherwise shackle or confine him in the common gaol or elsewhere, in such manner as may be necessary for his performing from day to day, the task or labor enjoined on him. Horse stealing how punished. Court to award treble damages.

Provided nevertheless, That if the cost and treble damages be paid, the court may remit the fine, which may have been adjudged in the premises.

And every person who shall be convicted as aforesaid, shall on a *second* conviction, be punished by whipping, not exceeding one hundred stripes, and confined to hard labor a term not exceeding ten years, or any part or all of the aforesaid punishments at the discretion of the court before whom the conviction is had. Punishment for second conviction.

SEC. 20. *And it is hereby further enacted*, That if any person shall publicly deny the be-

ing and exiſtence of GOD, or of the SUPREME BEING, or ſhall contumelioufly reproach his providence and government, he ſhall be deemed a diſturber of the public peace and tranquility, and an offender againſt the good morals and manners of ſociety, and on conviction thereof before the ſupreme court of judicature, ſhall be puniſhed by fine not exceeding two hundred dollars, and may be bound to his or her good behaviour for a term not exceeding one year.

Adultery how puniſhed.

SEC. 21. *And it is hereby further enacted*, That if any perſon ſhall commit adultery, and be thereof convicted before the ſupreme court of judicature, he or ſhe ſhall be puniſhed by fine, not exceeding five hundred dollars, and be whipped not exceeding thirty-nine ſtripes.

Perſons divorced or whoſe marriage is declared void cohabiting, puniſhed as adultery.

SEC. 22. *And it is hereby further enacted*, That if any man or woman who have been or ſhall hereafter be divorced, or whoſe marriage has been or ſhall hereafter be declared null, or void, according to law, ſhall cohabit, or have commerce together as man and wife, and be thereof convicted before the ſupreme court of judicature, he or ſhe ſhall be puniſhed as in caſe of adultery.

Proviſo.

Provided nevertheleſs, That in caſes where the huſband, or wife ſhall be abſent from their home, or from each other, for more than three years, and under ſuch circumſtances as that the perſon procuring ſuch bill of divorce, ſhall ſuppoſe the other to be dead, and where the perſon procuring ſuch bill ſhall remain unmarried, until the return of his or her huſband or wife (as the caſe may be) the party procuring ſuch bill as aforeſaid, may make application to the court granting ſuch bill, for a reverſal of the decree, granting ſuch bill of divorce—and if ſaid court ſhall order ſuch decree to be reverſed, ſuch perſons may thereafter law-

fully cohabit together, in the ſame manner as though ſuch bill of divorce had never been granted.

Poligamy how puniſhed.

SEC. 23. *And it is hereby further enacted*, That if any perſon or perſons in this ſtate being married, or who ſhall hereafter marry, ſhall, at any time, marry any other perſon, the former huſband or wife being alive, or ſhall continue to live together ſo married, every ſuch offender being thereof convicted before the ſupreme court of judicature, ſhall be puniſhed as in caſe of adultery, and every perſon ſo offending may be tried in the county in which he or ſhe ſhall be apprehended.

1ſt Proviſo.

Provided always, That nothing in this ſection ſhall be conſtrued to extend to any perſon, whoſe huſband or wife ſhall be abſent beyond ſeas, for the ſpace of ſeven years together, or whoſe huſband or wife ſhall be abſent for the term of ſeven years together, in any part of this, or the United States, or elſewhere, and the one of them, in either caſe not knowing the other to be living during that time.

2d Proviſo.

Provided alſo, That nothing in this ſection ſhall be conſtrued to extend to any perſon whoſe huſband, or wife ſhall hereafter put to ſea, in any veſſel bound from one port to another, the voyage being uſually performed in three months, and ſuch veſſel ſhall not be heard of within the ſpace of three full years next after putting to ſea from ſuch port; or ſhall only be heard of under ſuch circumſtances as may confirm the opinion of the whole company's being loſt, but in every ſuch caſe the premiſes being repreſented, and ſhewn before the ſupreme court of judicature, the ſaid court may declare the perſon whoſe huſband or wife, ſhall be in this manner ſeparated, to be ſingle and unmarried, and upon ſuch declaration and liberty obtained from the ſaid court,

may lawfully marry again, any thing herein contained to the contrary notwithſtanding.

3d Proviſo.

Provided alſo, That nothing herein contained ſhall extend to any perſon, who ſhall be at the time of ſuch marriage divorced by ſentence or decree of any court having legal juriſdiction for that purpoſe, or to any perſon or perſons in caſe the former marriage, has, or ſhall by ſentence of ſuch court, be declared to be null and void; or to any perſon or perſons by reaſon of any former marriage had or made, or hereafter to be had or made, within the age of conſent, that is to ſay, the man fourteen years of age, and the woman twelve, and not afterwards aſſented to.

Married perſons found in bed together, to be puniſhed as adulterers

SEC. 24. *And it is hereby further enacted*, That if any man be found in bed with another man's wife, or any woman with another's huſband, under ſuch circumſtances, as ſhall afford preſumption of an illicit intention, on conviction thereof before the ſupreme court of judicature, every ſuch perſon ſhall be puniſhed as in caſe of adultery.

Inceſt how puniſhed.

SEC. 25. *And it is hereby further enacted*, That if any man and woman ſhall marry or carnally know each other, being within any of the degrees of kindred deſcribed in an act entitled "*An act regulating marriage and divorce*," or being ſo married ſhall continue to dwell together, on conviction thereof before the ſupreme court of judicature, every ſuch perſon ſhall be puniſhed as in caſe of adultery.

Defaming civil authority how puniſhed.

SEC. 26. *And it is hereby further enacted*, That if any perſon ſhall defame any court of juſtice, or any ſentence or proceedings thereof, or ſhall defame any of the magiſtrates, judges or juſtices of any ſuch court, touching any act or ſentence therein paſſed, on conviction thereof before the ſupreme court of

judicature, such person shall be punished by fine not exceeding two hundred dollars.

SEC. 27. *And it is hereby further enacted*, That if any person shall pretend to teach, or procure to be taught, to any person or persons the art of making, mixing, altering or debasing any metal to the imitation of gold or silver, or shall make, mix, alter or debase any metal to the imitation of gold or silver for the purpose of coining, or shall receive a contract to receive of any person or persons any sum of money, goods or other thing as a reward for teaching, or procuring to be taught as aforesaid, such pretended art of making, mixing, altering or debasing any metal to the imitation of gold or silver for the purpose of coining, every such offender on conviction thereof before the supreme court of judicature, shall pay a fine not exceeding four hundred dollars, and be imprisoned, and confined to hard labor, not exceeding six months, or both, or either of them, at the discretion of the court, according to the nature and aggravation of the offence, and shall forfeit double the value of the money, goods or other things so received, or contracted to be received, as a reward as aforesaid, one moiety thereof to the treasury of the state, and the other moiety to him or them who shall prosecute the same to effect, to be recovered by action brought on this statute for that purpose. Counterfeiting or debasing metals, how punished.

SEC. 28. *And it is hereby further enacted*, That if any person shall give or receive, or shall offer or propose to give or receive any sum of money, or any goods, or other thing to be repaid at any advance beyond the just value of the money, goods or other thing so given, or received, or offered, or proposed to be given, or received in money, which money so to be repaid shall be understood to be base, Swindling how punished.

and of leſs value than the common ſtandard, but would, as it ſhould be pretended paſs current and without diſcovery of its baſeneſs, every ſuch offender on conviction thereof before the ſupreme court of judicature, ſhall pay a fine not exceeding four hundred dollars, and be impriſoned and confined to hard labour, not exceeding ſix months, or both or either of them at the diſcretion of the court, according to the nature and aggravation of the offence.

Falſe tokens, &c.

SEC. 29. *And it is hereby further enacted*, That if any perſon ſhall by falſe tokens, meſſages, letters, or by other fraudulent wyndling, or deceitful practices, obtain or procure from any perſon or perſons, any money, goods or chattels, or ſhall fraudulently, and of deſign make or draw any note, bill, bond or other aſſurance for money, goods, wares, merchandizes, or other thing, whereby any other perſon or perſons ſhall obtain a falſe and deceitful credit, for any money, goods, chattels, wares, merchandize or other thing; or ſhall fraudulently and deceitfully make, draw, or execute any note, bill, bond or other aſſurance for any ſum or ſums of money, or for goods, chattels, wares, merchandize, or other thing, with intent that the ſame ſhould be diſcharged, releaſed, or payment thereof acknowledged, or in any way cancelled by the payee, obligee, or promiſſee, on ſuch note, bill, bond or other aſſurance, and ſuch note, bill, bond or other aſſurance after having been ſo diſcharged, releaſed, or payment thereof acknowledged, or otherwiſe cancelled, as aforeſaid, ſhall be fraudulently ſold or transferred to any perſon or perſons, as and for a good note, bill, bond or other aſſurance, due and payable, as therein expreſſed, either in whole, or in part, every ſuch offender, on conviction

thereof before the ſupreme court of judicature ſhall pay a fine not exceeding one thouſand dollars—and ſhall forfeit the full value of the money, goods or chattels, wares, merchandizes, or other thing ſo obtained by ſuch falſe tokens, meſſages, letters or other fraudulent ſwindling, or deceitful practices, or the full value of the money, goods, chattels, wares, merchandizes or other thing obtained by ſuch falſe and deceitful credit, and alſo the full amount expreſſed in ſuch note, bill, bond, or other aſſurance ſo fraudulently ſold as aforeſaid, to be recovered by the party aggrieved, by action brought on this ſtatute for that purpoſe.

SEC. 30. *And it is hereby further enacted*, That if any perſon ſhall forge, counterfeit, or alter any of the coins which ſhall be made current by the laws of this, or the United States, or ſhall paſs, or put off, or ſhall offer, or procure to be offered, paſſed, or put off, any ſuch forged, falſe or counterfeit coins, knowing them to be ſuch, or ſhall make or mend, or have in his poſſeſſion any die, ſtamp, or any other inſtrument, or tool, or ſhall buy or ſell, any ſuch die, ſtamp, or other inſtrument or tool, for the purpoſe of forging or counterfeiting any of the coins aforeſaid, every perſon ſo offending, and being thereof convicted before the ſupreme court of judicature, ſhall be puniſhed by whipping not exceeding one hundred ſtripes, nor leſs than thirty nine, and may be ſentenced to ſtand in the pillory not leſs than one hour in each day, for three days ſucceſſively, in the county town of the county where ſuch conviction is had, and be committed to any gaol, or houſe of correction in this ſtate, and be there kept to hard labor, for

Forgery of coins or counterfeiting how puniſhed.

ſo long a time as the ſupreme court ſhall adjudge, not exceeding ſeven years, and ſhall pay a fine not exceeding ſeven hundred dollars to the treaſury of this ſtate.

Aiding & adviſing &c. how puniſhed

And if any perſon ſhall counſel, adviſe, procure, or in any way aſſiſt in forging, counterfeiting, falſifying, or altering, or in paſſing, or putting off, any of the coins aforeſaid, and be thereof convicted before the ſupreme court of judicature, ſuch perſon or perſons ſo offending, ſhall be puniſhed by whipping not exceeding one hundred, nor leſs than thirty-nine ſtripes, and ſtanding in the pillory one hour, in each day, for three days ſucceſſively, in the county town of the county where ſuch conviction is had, and ſhall pay to the treaſury of this ſtate, in the diſcretion of the ſupreme court, a ſum not exceeding four hundred dollars.

Juſtices of the peace to ſeize all counterfeited coin, and examine perſons under oath relative thereto.

SEC. 31. *And it is hereby further enacted*, That every juſtice of the peace within this ſtate, is hereby authoriſed and empowered, and it is hereby made their duty, to ſeize and take into cuſtody, every piece of ſuch falſe, forged, altered or counterfeited coin, which he ſhall ſee, obſerve, or have knowledge of, and the ſame ſhall retain, entering the name of the perſon or perſons from whom he took the ſame; and at his diſcretion, to cauſe the perſon or perſons from whom he took ſuch coin, to come before him to be examined in the premiſes, and to adminiſter an oath to ſuch perſon or perſons, to declare from whom he, or they received ſuch coin, and proceed in his enquiries in manner aforeſaid, for the detection of the author of ſuch miſchief, ſo far as he, in his diſcretion, ſhall think neceſſary—And it ſhall be the duty of ſuch juſtice, to ſeize every ſtamp, die, and every other tool or in-

ſtrument, which are made and kept for the purpoſe of counterfeiting as aforeſaid, and ſhall cauſe to be taken into cuſtody the perſon or perſons, with whom ſuch ſtamp, die, or other inſtrument, or tool ſhall be found, and the ſame perſon or perſons, in his diſcretion, bind over to the next ſupreme court in the ſame county; and it ſhall be the duty of ſuch juſtice, when he ſhall receive any ſuch money or tools, whether the perſon ſo ſuſpected be bound over or not, to deliver to the ſupreme court of judicature, at their next ſeſſion in the ſame county, ſuch money or tools, with a ſtatement of the circumſtances relating thereto.

Sheriffs' high bailiffs' conables' and grand jurors' duty to ſeize tools, &c.

SEC. 32. *And it is hereby further enacted*, That it ſhall be the duty of every ſheriff, high-bailiff, conſtable and grand juror, to ſeize on all ſuch tools, or inſtruments, as they may find, which were made or kept for the purpoſes aforeſaid, and the ſame immediately convey to ſome proper authority, and there give information of the place in which, and the perſon from whom ſuch tools were taken, and every officer ſhall give information to ſome juſtice of the peace, of any place in which he may have reaſonable cauſe to ſuſpect any ſuch tools, or inſtruments are concealed, or coins are counterfeited; and any juſtice, on ſuch information, or from his own knowledge, may in his diſcretion iſſue his warrant, directed to ſome proper officer, to ſearch ſuch ſuſpected places, and bring before ſome proper authority, ſuch tools or inſtruments, as he may find, and the perſon or perſons with whom they are found, to be examined concerning the premiſes.

SEC. 33. *And it is hereby further enacted*, That if any perſon ſhall counterfeit or cauſe, or procure to be counterfeited, or aid or aſſiſt

Counterfeiting bank bills or notes, how punished.

in counterfeiting any bill or note, iſſued or to be iſſued by the preſident, directors, and company of the Bank of the United States, or by the directors of any other bank, by whatever name it may be called or denominated, by or under the authority of the legiſlature of any of the United States of America, or ſhall alter any ſuch bill or note iſſued, or to be iſſued, as aforeſaid, or ſhall utter, paſs or give in payment, or offer to paſs or give in payment, or procure to be offered, paſſed or given in payment, any ſuch counterfeited or altered bill or note, knowing the ſame to be counterfeited or altered, or ſhall make or engrave any plate, or other inſtrument, or ſhall cauſe, or procure the ſame to be made, or engraven, or ſhall have any ſuch plate or inſtrument, in his or her poſſeſſion, for the purpoſe of counterfeiting, every perſon ſo offending on conviction thereof before the ſupreme court of judicature, ſhall ſuffer the ſame puniſhment as is directed in the thirtieth ſection of this act.

Counterfeiting hard money orders, &c. how puniſhed.

SEC. 34. *And it is hereby further enacted*, That if any perſon ſhall falſely make, alter, forge, or counterfeit; or ſhall cauſe or procure, to be falſely made, altered, forged or counterfeited; or ſhall counſel, adviſe, aid or aſſiſt in the falſely making, altering, forging or counterfeiting any of the hard money orders iſſued by the treaſurer of this ſtate, or hereafter to be iſſued; or any of the orders drawn by the clerk or clerks of the ſupreme court of judicature, or hereafter to be drawn on the treaſurer of this ſtate; or any other order or certificate which has been, or ſhall hereafter be drawn by any perſon or perſons purſuant to law, on the treaſurer of this ſtate; or any of the orders drawn by the clerks of the ſeveral county courts, or the treaſurer of their reſpective counties; or notes or due bills

iſſued by ſuch county treaſurer, with intent to defraud any perſon, or ſhall with ſuch intent knowingly offer, paſs, utter or publiſh the ſame as true; or procure the ſame to be offered, paſſed, uttered, or publiſhed as true, the perſon herein offending, ſhall, on conviction thereof before the ſupreme court of judicature, be ſet in the pillory and have one or both ears cut off; and pay ſuch fine to the treaſury of this ſtate, as ſaid court ſhall order and direct.

Perſons indicted ſtanding, mute, how to proceed againſt.

SEC. 35. *And it is hereby further enacted*, That in all indictments founded on this act, when the perſon arraigned, ſhall obſtinately ſtand mute, or refuſe to plead, and be tried by due courſe of law, ſuch ſtanding mute, or refuſal to plead, and be tried as aforeſaid, ſhall be adjudged to amount to, and be a proper traverſe or denial of the facts charged in the indictment, and the trial ſhall thereupon proceed in like manner, and the record ſhall be in the ſame form, and the ſame judgment ſhall be given againſt the ſaid party, if found guilty, as if he, or ſhe had, on being arraigned, plead not guilty, and for trial had put himſelf, or herſelf on the country.

No perſon to be tried, until indictment found.

SEC. 36. *And it is hereby further enacted*, That no perſon ſhall be tried for any offence againſt this act, until a bill of indictment be found againſt him for ſuch offence, by the grand jurors, attending the ſupreme court of judicature, and in all criminal cauſes, the trial ſhall be had in the county in which the offence was committed, if committed within this ſtate.

Trial to be in the county.

Except.

Provided always, That when a perſon ſhall be feloniouſly ſtricken, or poiſoned, in one county and die of the ſame ſtroke or poiſoning in another county, the indictment may be found, and the trial had, in either of the ſaid counties.

Offenders not allowed to challenge peremptorily more than six jurors.

SEC. 37. *And it is hereby further enacted*, That every perſon indicted for any crime mentioned in this act, who ſhall have duly pleaded to the indictment found againſt him, and put himſelf on the country for trial, ſhall be permitted peremptorily to challenge ſix of the jurors, and as great a number further, as he, or ſhe can ſhow good cauſe for challenging; and if any perſon indicted as aforeſaid, ſhall refuſe to put himſelf, or herſelf on the country for trial, or ſhall peremptorily challenge a greater number than ſix of the jurors as aforeſaid, the court ſhall diſallow all ſuch peremptory challenges above the number of ſix, and the jury ſhall be charged, and the trial proceed in like manner, in all reſpects, and the like judgment ſhall be given, as if the perſon ſo refuſing to put himſelf on the country for trial, or ſo challenging a greater number than ſix jurors, without aſſigning any cauſe, had duly put himſelf, or herſelf on the country for trial, and had not peremptorily challenged a greater number of jurors than by law, he, or ſhe might or could have done.

Challenges to jurors not allowed on the part of the ſtate.

SEC. 38. *And it is hereby further enacted*, That no peremptory challenges to jurors ſhall be made in behalf of the ſtate.

Death by hanging.

SEC. 39. *And it is hereby further enacted*, That the manner of inflicting the puniſhment of death, ſhall be by hanging the perſon convicted, by the neck until dead.

Offenders to have proceſs to compel the appearance of witneſſes.

SEC. 40. *And it is hereby further enacted*, That every perſon who ſhall be arraigned, or tried for any offence compriſed in this act, ſhall be admitted to make any proof that he or ſhe can produce, by lawful witneſs, or witneſſes, who ſhall then be under oath, for his or her juſt defence in that behalf, and ſhall have the like proceſs of the court, in which he or ſhe ſhall be tried, to compel his or her witneſſes to appear for him, or her, at ſuch trial, as is

uſually granted to compel witneſſes to appear againſt him or her.

SEC. 41. *And it is hereby further enacted,* That every perſon arraigned and tried on an indictment for murder, burglary or robbery, and the evidence in the opinion of the jury ſhall not be ſufficient to prove the crime alledged, it ſhall be lawful for the jury on an indictment for murder, to acquit the perſon indicted of the murder, and find him or her guilty of manſlaughter, if the evidence ſhall be ſufficient thereto; and on an indictment for burglary and robbery, the jury may acquit of the crimes alledged and convict of ſtealing, if the evidence ſhall be ſufficient thereto.

On indictment for murder, &c. the jury may acquit, and find guilty of a leſs crime.

Paſſed March 9, 1797.

CHAPTER X.

An ACT *for the puniſhment of certain inferior crimes and miſdemeanors.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont,* That if any perſon ſhall ſteal any money, goods, or chattels; or any bond, bill, note, accountable receipt, or other written ſecurity, aſſurance, or promiſe for the payment of money, or performance of any covenant, contract, or agreement; or any acquittance, releaſe, or diſcharge, of any debt, due, demand, covenant, contract or agreement, every perſon ſo offending, his or her counſellors, aiders or abettors knowing of, or privy to the offences aforeſaid, on conviction thereof before any county court, or ſupreme court of judicature, ſhall be fined not exceeding three hundred dollars, or whipped not exceeding thirty-nine ſtripes, and the ſaid court ſhall further award

Theft of goods & chattels, how puniſhed.

Treble damages to be awarded.

to the party from whom the money, goods or other articles were ſtolen, treble the value thereof; any of the articles ſtolen, being returned undamaged, to be accounted part according to the value thereof: And if ſuch offender ſhall be unable to make reſtitution, or pay ſuch treble damages, he may be aſſigned in ſervice to make ſatisfaction; and the party to whom ſatisfaction is to be made, is hereby empowered to diſpoſe of ſuch convict in ſervice, for ſuch term of time as ſhall be ordered by the court, or juſtice, before whom the conviction ſhall be had.

No damages awarded, unleſs the party proſecute.

Provided always, That treble damages ſhall in no inſtance be awarded, unleſs the party from whom ſuch money, goods or other articles were ſtolen, ſhall become the proſecutor. And if the proſecution ſhall be commenced by a town or county informing officer, the party aggrieved by ſuch theft ſhall have liberty to enter himſelf the proſecutor by becoming recognized to pay coſts in common form—and ſuch proſecutor may be examined under oath, only as to the property of the money, goods or other articles ſo ſtolen.

Buyers & receivers of ſtolen goods puniſhed as principals.

SEC. 2. *And it is hereby further enacted*, That if any perſon ſhall buy, or receive any goods, chattels or other things taken or ſtolen from any other perſon, knowing the ſame to be ſtolen, or ſhall receive and harbor any thief or thieves, knowing him, her or them to be ſuch, the perſon ſo offending, on conviction thereof ſhall be liable to the ſame puniſhment as is preſcribed in the preceding ſection.

Juſtices impowered to try theft, when the property does not exceed ſeven dollars.

SEC. 3. *And it is hereby further enacted*, That every juſtice of the peace, within his own county, is hereby empowered to hear, try and determine all offences againſt the two laſt preceding ſections of this act. *Provided* the value of the property ſtolen does not exceed the

ſum of ſeven dollars, and may ſentence any ſuch offender to pay a fine not exceeding ſeven dollars, or to be whipped not exceeding ten ſtripes.

SEC. 4. *And it is hereby further enacted*, That if any perſon ſhall ſteal any fruit from any orchard, garden, or other incloſure, whether ſuch fruit had been previouſly ſevered from the tree, plant or vine, on which it had grown or not, he or ſhe ſhall be puniſhed by fine, not exceeding one hundred dollars, and the court before which the conviction is had ſhall award to the party injured treble damages, and coſts as aforeſaid, and in caſe of inability to pay ſuch damages, may aſſign ſuch perſon in ſervice to make ſatisfaction. And every juſtice of the peace within his own county, ſhall have cognizance of ſaid offence if the value of the fruit ſo taken ſhall not exceed ſeven dollars.

Fruit ſtealing how puniſhed.

Juſtices empowered to try under ſeven dollars.

SEC. 5. *And it is hereby further enacted*, That if any perſon or perſons ſhall impede or hinder any officer, judicial or executive, civil or military, under the authority of this ſtate, in the execution of his office, ſuch perſon or perſons, on conviction thereof, ſhall pay a fine not exceeding two hundred dollars each, to the treaſury of the county in which the conviction ſhall be had; and if any ſuch perſon or perſons ſhall not be of ſufficient ability to pay ſuch fine and the coſts of proſecution, the court may aſſign ſuch perſon or perſons in ſervice, to any citizen of this ſtate, for ſo long a time as ſhall be neceſſary to make ſatisfaction of ſuch fine and coſts.

Impeding authority how puniſhed.

And if any perſon ſhall be convicted a ſecond time of the aforeſaid offence, he ſhall pay a fine, not exceeding two hundred dollars, and ſhall be impriſoned in any gaol in this ſtate,

Second conviction how puniſhed.

one whole year; and if at the expiration of ſaid term, he be not of ſufficient ability to pay ſuch fine and coſts, he ſhall be liable to be aſſigned in ſervice as aforeſaid.

Breaking gaol how puniſhed.

SEC. 6. *And it is hereby further enacted*, That if any perſon or perſons, ſhall directly or indirectly break open, or counſel, aid, or aſſiſt in breaking open any gaol, or place of confinement, in which any priſoner ſhall be confined by the authority of this ſtate, ſuch perſon or perſons, ſhall, on conviction thereof, pay a fine not exceeding two hundred dollars, to the treaſurer of the county, in which ſuch offence is committed, and be impriſoned ſix months; and if any ſuch perſon or perſons, at the expiration of ſaid term, ſhall not be of ſufficient ability, to pay ſuch fine, and the coſts of proſecution, he, ſhe, or they, may be aſſigned in ſervice, as directed in the laſt preceding ſection.

puniſhment for a ſecond convic. tion.

And if any perſon ſhall be convicted a ſecond time of the aforeſaid offence, he, ſhe, or they, ſhall pay a fine not exceeding three hundred dollars, and be impriſoned one year.

Fraudulent and deceitful conveyances void.

SEC. 7. *And it is hereby further enacted*, That all fraudulent and deceitful conveyances of goods or chattels; and all bonds, bills, notes, contracts and agreements; and all ſuits, judgments and executions, made or had, to avoid any right, debt, or duty of others, ſhall, as againſt the party or parties only, whoſe right, debt or duty is endeavored to be avoided, their heirs, executors, adminiſtrators or aſſigns, be utterly null and void, any falſe pretence, or feigned conſideration to the contrary notwithſtanding.

Penalty for making.

And every of the parties to ſuch fraudulent and deceitful conveyance of goods or chattels, bond, bill, note, contract, agreement, ſuit, judgment, or execution; or any conveyance of

houſes, lands, tenements, or hereditaments, made with like fraudulent intent, who, being privy thereto, ſhall juſtify the ſame, to be made, had or executed, *bona fide*, and upon good conſideration, or ſhall aliene, or aſſign any houſes, lands, tenements, or hereditaments ſo to him, her or them conveyed as aforeſaid, ſhall forfeit the full value of ſuch houſes, lands, tenements or hereditaments, and the full value of ſuch goods or chattels, and alſo ſo much money as ſhall be contained in ſuch covenous bond, bill, note, contract or agreement; which forfeitures ſhall be equally divided between the party aggrieved, and the county treaſurer, for the uſe of the county, to be recovered by an action brought on this ſtatute.

SEC. 8. *And it is hereby further enacted*, That if any perſon ſhall be a common barrator, vexing others by promoting frequent, unjuſt and needleſs ſuits, and be thereof convicted, he ſhall pay a fine not exceeding forty dollars, to the treaſury of the county, where the conviction ſhall be had, and ſhall become bound, with ſufficient ſurety or ſureties, in a recognizance for his good behavior, for ſuch term as the court before which the conviction is had, ſhall direct—and on refuſal he ſhall be committed to gaol, there to remain, until he ſhall pay ſuch fine, and become bound as aforeſaid.

Barrators how puniſhed.

SEC. 9, *And it is hereby further enacted*, That if any perſon, or number of perſons, ſociety or company of men, within this ſtate, without authority and licence firſt had and obtained from the legiſlature, ſhall ſtrike, emit or put in circulation, any bills of credit, or notes, on any fund, or credit of any perſon or perſons, ſociety or company, to be paſſed and uſed as a general currency, or medium of trade, traffic or commerce, in lieu of money,

Private bills of credit, penalty for emitting.

(other than promiſſory notes of hand, and bills of exchange,) every perſon herein offending, on conviction thereof, ſhall forfeit treble the nominal value of the bills, or notes, ſo emitted or put in circulation, one third part to him, her or them, who ſhall ſue for and proſecute the ſame to effect, and the other two thirds to the treaſury of the county, in which the conviction ſhall be had.

Private bills penalty for uttering or paſſing

SEC. 10. *And it is hereby further enacted*, That if any perſon, or perſons within this ſtate, ſhall utter, vend or paſs, any bills or notes, or other currencies whatever, which either have been, or which ſhall hereafter be ſtruck, emitted, or put in circulation to be paſſed, and uſed as a general currency, or medium of trade, traffic or commerce, in lieu of money as mentioned in the laſt preceding ſection, on the fund or credit of any private perſon or perſons, or private ſociety or company of men, either in this or any of the neighboring ſtates, every perſon ſo offending on conviction thereof, ſhall forfeit double the value expreſſed in ſuch bill, note or other currency; the one moiety thereof to him, her, or them who ſhall ſue for and proſecute the ſame to effect, and the other moiety to the town treaſury, when the conviction ſhall be had before a juſtice of the peace; and to the county treaſury, when the conviction ſhall be had before the county court.

Private lotteries prohibited.

SEC. 11. *And it is hereby further enacted*, That if any perſon or perſons, within this ſtate without authority and licence firſt had and obtained, from the legiſlature, ſhall publicly or privately erect, ſet up, or make any lottery, game or device of chance, of any nature, or by any name whatever; or ſhall by any ſuch means expoſe for ſale, any houſes, lands, tenements or real eſtate, or any goods, wares, mer-

chandizes, caſh, or other thing or things whatever, every perſon ſo offending on conviction thereof, ſhall forfeit the amount of the whole ſum, or value for which ſuch lottery was made, to be recovered by action brought on this ſtatute; one moiety thereof to him or them, who ſhall ſue for, and proſecute the ſame to effect, and the other moiety thereof to the treaſury of the county, in which ſuch conviction is had.

Penalty for ſelling or purchaſing tickets, or being concerned therein.

And every perſon who ſhall vend, ſell or barter, or who ſhall offer to vend, ſell or barter any ticket or tickets, of ſuch private lottery, game or device of chance, or if any perſon or perſons ſhall purchaſe or become an adventurer, or adventurers therein, or in any wiſe whatever be aiding or aſſiſting in the ſame; every perſon ſo offending, on conviction thereof, ſhall pay a ſum not exceeding thirty dollars, to be ſued for, and applied as is above directed.

Adventurers to forfeit their prize.

And every ticket, or other aſſurance, purporting to entitle any perſon, bearer or poſſeſſor to any prize or prizes in money; or to any houſes, lands, tenements, or other real eſtate, or to any other article or thing, for the diſpoſition of which ſuch lottery was erected; ſhall be utterly null and void, and no action ſhall be maintained thereon in any court in this ſtate.

SEC. 12. *And it is hereby further enacted*, That if any inn-keeper, or perſon licenſed to keep a houſe of public entertainment, ſhall keep in, or about his, her, or their houſe, or houſes, yards, gardens, or other dependencies thereof, any cards, dice, bowls, ſhuffle-boards, or billiards, or any other implements of gaming, and ſhall ſuffer any perſon or perſons reſorting to any of their houſes, to uſe, or exerciſe any of the aforeſaid implements uſed in gaming, for any liquors, ſum or ſums of mo-

Penalty on tavern-keepers keeping implements of gaming.

ney, goods or chattels. he, ſhe, or they on conviction thereof, ſhall forfeit and pay a fine of fifteen dollars, to the uſe of the town in which the offence is committed, to be recovered by the treaſurer of ſuch town, in an action brought on this ſtatute.

SEC. 13. *And it is hereby further enacted*, That if any perſon, or perſons ſhall at any time win, looſe, or bet, in money, goods, or chattels, on any game, or on any horſe-race, or other ſport, within this ſtate, every perſon on conviction thereof, ſhall forfeit the ſum of four dollars, and the value of the money, goods, or chattels, ſo won, loſt, or bet, to the uſe of the town in which the offence is committed, to be recovered by the treaſurer of ſuch town, in an action brought on this ſtatute, before any court proper to try the ſame. And if any perſon or perſons ſhall pay any money, goods, or chattels loſt at any game, or on any horſe-race, or other ſport as aforeſaid, he or they ſhall recover the ſame in an action brought on this ſtatute.

Penalty for gaming.

Provided always, That ſuch action ſhall be commenced within one month from the time ſuch money, goods, or chattels, was or were paid as aforeſaid.

Proviſo.

SEC. 14. *And it is hereby further enacted*, That all contracts, promiſes, notes, bills, bonds, judgments, and other aſſurances, and all mortgages, conveyances or ſecurities, made and executed by any perſon or perſons whomſoever, in which the whole or a part of the conſideration of the ſame was for any money, goods, or chattels, won, on any of the aforeſaid games, or for any money, goods, or chattels borrowed or lent for ſuch purpoſe, at the time and place of gaming, be and they are hereby declared to be utterly null and void, to all intents and purpoſes.

Bonds, notes, &c. given for property won by gaming, declared void.

SEC. 15. *And it is hereby further enacted*, That when three or more perſons ſhall meet or aſſemble themſelves together, with intent to do any unlawful act, with force and violence againſt the perſon of another, or againſt his or her goods or poſſeſſion, or to do any unlawful act againſt the peace, or to the manifeſt terror of the people, and being required or commanded by proclamation, to be made in the form, and by the authority herein after directed, ſhall not diſperſe themſelves, and peaceably depart to their habitations, or lawful buſineſs; or being ſo aſſembled as aforeſaid, ſhall do any unlawful act againſt the perſon, goods or poſſeſſion of any perſon, or againſt the peace, and be thereof convicted, before any court proper to try the ſame, they ſhall be, ſeverally, puniſhed by fine, not exceeding one hundred dollars, or impriſonment not exceeding ſix months.

Riots and unlawful aſſemblies how ſuppreſſed.

And every juſtice of the peace, ſheriff, deputy ſheriff or conſtable, within their reſpective juriſdictions, are hereby authoriſed, empowered and required, on notice, or knowledge of any ſuch unlawful and riotous aſſembly, to reſort to the place where ſuch aſſembly ſhall be, and after commanding ſilence, ſhall with a loud voice, make proclamation nearly as followeth, namely,

Every juſtice of the peace, ſheriff, deputy ſheriff, or conſtable to reſort to the place, and make proclamation.

"In the name of the ſtate of Vermont, I command all perſons being aſſembled, immediately to diſperſe themſelves, and depart to their habitations, or to their lawful buſineſs, under the pains and penalties of the law."

Form of proclamation.

SEC. 16. *And it is hereby further enacted* That if ſuch perſons ſo unlawfully aſſembled, or any three, or more of them, after proclamation made as aforeſaid, ſhall continue together and not diſperſe themſelves, it ſhall and may be lawful for every juſtice of the peace,

Three or more continuing together, after

proclamation, how to proceed againſt.

ſheriff, deputy ſheriff, or conſtable, who ſhall be preſent, and for any other perſon or perſons, who ſhall be commanded to aſſiſt ſuch juſtice, ſheriff, deputy ſheriff, or conſtable, (who are hereby authoriſed and empowered to command all, or any of the inhabitants of this ſtate, to aſſiſt them reſpectively) to ſeize and apprehend, and they are hereby required to ſeize and apprehend ſuch perſons, ſo unlawfully and riotouſly aſſembled, and continuing together, after proclamation made as aforeſaid, that they may be proceeded with according to law.

SEC. 17. *And it is hereby further enacted*, That if any of the perſons ſo unlawfully and riotouſly aſſembled, and continuing together as aforeſaid, to the number of twelve, for the ſpace of one hour, after proclamation made as aforeſaid, ſhall happen to be killed, maimed, or hurt in diſperſing, or apprehending, or in endeavoring to diſperſe, or apprehend them by reaſon of their reſiſting the perſon or perſons diſperſing, or endeavoring to diſperſe, or apprehend them, every ſuch juſtice of the peace, ſheriff, deputy ſheriff or conſtable, and all and ſingular the perſons aiding or aſſiſting them, or any of them, ſhall ſeverally be freed, diſcharged and indemnified from any bill, complaint, indictment, or action, that may be commenced againſt him or them, on that account.

Penalty for obſtructing the officer while making proclamation.

SEC. 18. *And it is hereby further enacted*, That if any perſon or perſons ſhall forcibly, wilfully, or knowingly oppoſe or obſtruct any perſon, or perſons, who ſhall begin or attempt to make proclamation as herein directed, whereby ſuch proclamation ſhall not be made, or after ſuch attempt and obſtruction, ſhall continue together, and not diſperſe, having knowledge thereof, [illegible] and every perſon ſo

offending, ſhall be puniſhed by fine not exceeding one hundred dollars, or impriſoned not exceeding ſix months.

Provided always, That no perſon or perſons ſhall be puniſhed by virtue of the two preceding ſections of this act, unleſs proſecution be commenced within ſix months after the offence is committed.

SEC. 10. *And it is hereby further enacted*, That if any perſon or perſons, by tumultuous noiſe, or quarrelling, or by any unlawful act, ſhall diſturb any town, diſtrict, ſociety or proprietors' meeting, or the meeting of any other community, which may be lawfully aſſembled; or ſhall prevent the members thereof, from chuſing their moderator; or by force or menace, ſhall hinder or prevent any perſon who is a legal voter, from voting in any ſuch meeting for a moderator, or for any other officer, or purpoſe; ſuch perſon or perſons ſo offending, and being thereof duly convicted, ſhall for every ſuch offence, forfeit and pay a fine not exceeding four dollars, to the treaſury of the town in which the offence is committed; and any juſtice of the peace in the next adjoining town (who can legally try any civil cauſe either for or againſt the party ſo offending) is hereby empowered to hear, try and determine any offence, againſt this ſection of this act.

Penalty for diſturbing meetings of town, ſociety &c.

Provided always, That if the offence be aggravated by ſome flagrant breach of the peace, in ſuch caſe the offender ſhall be ordered by ſuch juſtice, to become bound with ſufficient ſurety or ſureties, to appear before the county court, next to be holden within and for ſaid county, and anſwer all and ſingular the things that ſhall then and there be adjudged againſt him in the premiſes, and the ſaid county court may fine ſuch offender, not exceeding thirty

dollars, according to the nature and aggravation of the offence.

Swearing and curfing how punished.

SEC. 20. *And it is hereby further enacted*, That if any perſon ſhall profanely curſe, or ſwear, and ſhall be thereof convicted by confeſſion, or other ſufficient evidence, the perſon ſo offending ſhall pay a fine, not exceeding one dollar, nor leſs than twenty-five cents, for every offence. And in caſe any perſon ſhall profanely ſwear or curſe in the preſence and hearing of any juſtice of the peace, for any county, or in the preſence and hearing of any mayor, or alderman of any city while in the execution of his office, every ſuch juſtice of the peace, mayor, or alderman ſhall, and is hereby empowered, authorized and required, to convict every ſuch offender of ſuch offence, without any other proof whatever. And if any perſon convicted of any ſuch offence, be unable to pay the fine impoſed upon him, and coſt of proſecution, the juſtice before whom the conviction may be had, may aſſign ſuch perſon in ſervice, for ſuch length of time as ſhall be neceſſary to pay ſaid fine and coſts, not exceeding one month.

And the record of every ſuch conviction ſhall be made in the following form, namely,

"State of Vermont, }
fs. }

Form of record of conviction.

"Be it remembered, that on the day of A. B. of was convicted before me C. D. one of the juſtices of the peace for ſaid county, of uttering oath (or curſe, as the caſe may be), and was ordered to pay a fine of therefor.

"A true record, *C. D.* Juſtice Peace."

And all offences againſt this ſection of this act, ſhall be proſecuted within ten days after the offence committed, and not after.

SEC. 21. *And it is hereby further enacted*, That if any perſon ſhall in any manner diſturb, or break the peace, by tumultuous and offenſive carriage; by threatening, quarrelling, challenging, aſſaulting, beating or ſtriking any other perſon; the perſon or perſons ſo offending, ſhall be liable to pay ſuch fine as the court, taking into conſideration the ſituation of the party ſmiting, or being ſmitten, the inſtrument and danger of the aſſault, the time, place and provocation, according to the nature of the offence, ſhall adjudge. And if ſuch offence be aggravated by any high handed violence, it ſhall be the duty of a juſtice of the peace, to bind over the offender to the next county court, of the ſame county in which the offence ſhall be committed.

Breaking the peace how puniſhed.

Paſſed March 4, 1797.

CHAPTER XI.

An ACT *more effectually to prevent treſpaſſes in divers caſes.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That if any perſon ſhall cut down, deſtroy, or carry away, any tree or trees, whatever, placed or growing for uſe, ſhade or ornament; or any timber, wood, or underwood, ſtanding, lying or growing on the land of any other perſon; or off, or from the commons of any town, other than that in which he doth belong, nor within the ſame town having no right there, without leave or licence from a major part of the proprietors of ſuch commons, or from the owner or owners of the land on which ſuch trees, timber, wood or underwood were ſtanding, lying or growing; or ſhall cut

Penalty for cutting trees &c. on another's land.

On common lands.

For defacing marks on mill logs.

For throwing down bars and fences,

For digging ore &c. on others' land.

For cutting and carrying hay &c.

For breaking glaſs,

out, alter or deface the artificial mark, of any mill log or logs, or other valuable timber, in any river, or at any other place; or ſhall wantonly throw down, or open any bars or gates, fence or fences, and leave the ſame down, other than thoſe which lead into his own incloſures, or ſhall injure or deſtroy any fence or fences belonging to, or incloſing any lands not his own, or ſhall dig up or carry away ſtones, ore, gravel, clay, ſand, turf or mould, roots, fruits or plants, or cut down, or carry away any graſs, hay or corn, in which he hath no intereſt or right, ſtanding, lying or being on any lands not his own; or ſhall break the glaſs, or any part of it, in any building not his own; the perſon ſo offending, and being thereof convicted, before any court proper to try the ſame, for every ſuch offence, ſhall forfeit and pay a fine not leſs than two dollars, nor exceeding thirty dollars, in the diſcretion of the court having cognizance thereof, according to the nature of the offence. And the party injured, ſhall have right to recover of the perſon ſo offending, treble damages, by action founded on this ſtatute, together with coſts of proſecution.

Treble damages.

Provided always, That if upon the trial of any action of treſpaſs for cutting down, deſtroying, or carrying away any trees, timber or underwood, it ſhall appear by evidence that the defendant was guilty through miſtake, or that he had probable preſumption to believe that the land on which the trees, timber or underwood ſo cut, deſtroyed and carried away, were his own; in ſuch caſe, the court having cognizance of the cauſe, ſhall give judgment for the plaintiff to recover ſingle damages only, and coſts of ſuit.

Provided alſo, That nothing herein contained ſhall authoriſe any perſon to recover

more than the juſt value, of any timber taken for the making or repairing any public roads or bridges, and coſts.

SEC. 2. *And it is hereby further enacted*, That if any perſon ſhall wilfully, or wantonly break, cut down, deface or deſtroy any mile-ſtone, ſign-poſt, guide-poſt or other public monument, the perſon ſo offending, on conviction thereof, before any court proper to try the ſame, ſhall forfeit and pay a fine, not leſs than eight dollars, nor more than fifty dollars; to be recovered by information or indictment, with coſts of ſuit. Penalty for deſtroying or defacing public monuments.

And if any perſon other than an informing officer ſhall proſecute for the ſame, one moiety of ſaid penalty ſhall belong to the perſon ſo proſecuting. And if any perſon ſhall ſuffer damages thereby, he or ſhe ſhall have right of action againſt the offender, and ſhall recover treble damages as is before provided in this act.

SEC. 3. *And it is hereby further enacted*, That if any perſon ſhall commit any treſpaſs upon any buildings or enclоſures, belonging to any county, town, pariſh or diſtrict, or ſchool diſtrict, the treaſurer of ſuch county, town, pariſh, diſtrict, or the truſtees of any ſchool diſtrict, for the time being, ſhall have right to inſtitute, and maintain an action of treſpaſs, to recover ſuch damages, as ſhall be done to ſuch buildings, or encloſures, with coſts. And the perſon doing ſuch damages, may be further puniſhed by fine, on information or indictment, according to the nature of the offence, by any court having cognizance thereof, at the diſcretion of ſaid court. Penalty for committing treſpaſs on public buildings.

SEC. 4. *And it is hereby further enacted*, That if any perſon ſhall fall, put in or draw near any creek or river in this ſtate, and ſuffer to float down the ſtream, any tree, or timber Penalty for falling trees into creeks & rivers.

not being well trimmed, and which is of a greater length than twenty feet, he ſhall forfeit and pay the ſum of two dollars and fifty cents, for each tree or ſtick ſo fell, put in, or drawn near ſuch creek or river, and ſuffered to float down as aforeſaid, to the uſe of any perſon, who ſhall ſue for, and proſecute the ſame to effect, before any court proper to try and determine the ſame; and ſhall alſo pay all damages, which the public, or individuals ſhall ſuſtain thereby.

Penalty for wilfully or negligently ſetting fires.

SEC. 5. *And it is hereby further enacted*, That if any perſon, or perſons, ſhall wilfully or imprudently, ſet fire on any lands; or ſhall wilfully, or careleſsly, ſuffer ſuch fire to ſpread, or run, whereby damage ſhall be done to any other perſon or perſons; or cauſe the ſame to be done, or be aiding, or aſſiſting therein, the perſon ſo offending, ſhall pay to the perſon or perſons who ſhall be injured thereby, double damages; to be recovered by action of treſpaſs, founded on this ſtatute, with coſts of ſuit, before any court proper to try the ſame.

Dogs worrying or killing ſheep, damages for.

SEC. 6. *And it is hereby further enacted*, That if any ſheep ſhall be worried, wounded, or killed, by any dog or dogs within this ſtate, the owner or keeper of ſuch dog, or dogs, ſhall pay to the owner, or owners of ſuch ſheep, ſo worried, wounded or killed, juſt damages; to be recovered by action of treſpaſs, founded on this ſtatute, together with coſts, before any court proper to try the ſame. And after ſuch damages recovered as aforeſaid, it ſhall be lawful for any perſon to kill ſuch dog, or dogs; and no action ſhall be ſuſtained againſt ſuch perſon, for killing ſuch dog or dogs.

Defendants in action on this ſtatute may

SEC. 7. *And it is hereby further enacted*, That in all actions founded on this ſtatute, it ſhall be lawful for the defendant to plead the

general iſſue, and give any ſpecial matter in evidence.

plead the general iſſue.

SEC. 8. *And it is hereby further enacted, and provided*, That nothing in this act ſhall be conſtrued to prevent any ſurveyor of high-ways removing any incumbrance in any public road, or high-way; or to prevent any proſecution for theft, when a theft ſhall have been committed.

Surveyors of high-ways not prevented from removing incumbrances.

Provided alſo, That when any mill logs, or other valuable timber, marked as before-mentioned in this act, ſhall be floated by any flood, or freſhet, and left in the incloſure or improved land of any perſon, to his or her prejudice, it ſhall be lawful for the perſon ſo prejudiced, to remove the ſame. But in ſuch caſe, it ſhall be the duty of the perſon ſo removing the ſame, to advertiſe in ſome public place in the town, the number of the logs ſo removed, together with the artificial marks thereof; and alſo cauſe a record of the ſame to be made, in the town-clerk's office, in the town in which the logs or timber ſhall be found, and if the owner or owners of ſuch logs or timber, ſhall not appear, and claim the ſame, within nine months, and pay all damages, ſuch logs and timber ſhall be forfeited to the uſe of the perſon on whoſe lands they ſhall be ſo found; any thing herein contained to the contrary notwithſtanding.

Mill logs, &c. floated on another's land may be removed.

To be advertiſed and recorded.

Paſſed March 4, 1797.

CHAPTER XII.

An ACT *relating to* Baſtards, *or* Baſtardy.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That if any ſingle woman ſhall be de-

Reputed fathers of baſtard children chargeable for their maintenance.

livered of any baſtard child, which ſhall be chargeable, or likely to become chargeable to any town, or ſhall declare herſelf to be with child, and that ſuch child is likely to be born a baſtard, and to be chargeable to any town, and ſhall in either of the caſes, upon examination before any juſtice of the peace, of the ſame county, in writing upon oath, charge any perſon with having gotten her with child, and being the father of ſuch child, the ſaid juſtice upon application made to him, by the overſeer or overſeers of the poor of ſuch town, or perſon acting as ſuch, to iſſue his warrant for the immediate apprehending of the perſon charged as aforeſaid, and bringing him before ſuch juſtice, or ſome other juſtice of the peace of the ſame county, which warrant ſhall run into any county in this ſtate, and be there executed by any perſon to whom the ſame ſhall be directed—And the juſtice before whom ſuch perſon ſhall be brought, is hereby authoriſed and required to commit ſuch perſon to the common gaol of the ſame county, unleſs he ſhall give ſecurity to indemnify ſuch town, from the ſupport and maintenance of ſuch child, or ſhall enter into a recognizance with ſufficient ſurety, in the ſum of one hundred and fifty dollars, conditioned, "That he will perſonally appear before the county court, next to be holden within and for the ſame county, and to abide and perform ſuch order or orders, as ſhall be made by the court in the premiſes." And if upon the circumſtances of the caſe, the court ſhall adjudge the perſon ſo charged, to be the father of ſuch baſtard child, and that ſuch child is likely to become chargeable to ſuch town, they ſhall and may, in their diſcretion, make order for the ſupport of ſuch baſtard child, by charging the father, with the aſſiſtance of the mother, with the payment of mo-

Juſtices may iſſue warrant to apprehend.

May commit to gaol or take recognizance.

County court to make order for ſupport.

ney for the maintenance of ſuch child, in ſuch manner and in ſuch proportion, as they ſhall think meet and convenient, and for ſuch time, as ſuch child is likely to become chargeable to ſuch town, and no longer. And the father of ſuch child, ſhall enter into a recognizance with ſufficient ſureties before ſaid court, in ſuch ſum as the court ſhall direct, to the overſeers of the poor of the town chargeable with the maintenance of the child, and their ſucceſſors in office, conditioned, "That ſuch reputed father ſhall obſerve and perform ſuch order of the court as aforeſaid"—unleſs ſuch father ſhall otherwiſe give ſufficient ſecurity to indemnify ſuch town. And if ſuch reputed father ſhall make default, and not pay the money ſo as aforeſaid, charged upon him by order of ſaid court, to the overſeers of the poor for the maintenance of ſuch child, the court before whom ſuch recognizance was entered into, ſhall, from time to time, upon motion of the overſeers of the poor, or any of them, enter up judgment and award execution for the money in ſuch order mentioned, as the ſame ſhall become due, againſt the ſaid father and his ſureties, their executors or adminiſtrators. *Provided* twelve days notice ſhall be given to the parties againſt whom ſuch motion is to be made, before the making thereof, and if ſuch reputed father ſhall refuſe to enter into ſuch recognizance, he ſhall be committed unto the common gaol of the ſame county, there to remain until he ſhall enter into ſuch recognizance as aforeſaid; or until the overſeers of the poor of ſuch town ſhall conſent to his diſcharge, or he ſhall otherwiſe be diſcharged by due courſe of law.

Recognizance to perform the order of court.

Court to render judgment and award execution.

SEC. 2. *Provided always, and it is hereby further enacted*, That if the perſon charged as

Trial by jury granted.

aforesaid, shall request a trial by jury, the same shall be granted him; and the issue shall be whether chargeable or not, and in either case, whether the prosecution shall be tried by the court or jury, if the court should be of opinion, that he ought not to be charged, or if the jury shall return a verdict, that he is not chargeable, he shall be acquitted and discharged without cost or further order.

Mother may prosecute.

SEC. 3. *Provided nevertheless, and it is hereby further enacted*, That when the overseers of the poor of any town shall fail or neglect to pursue the remedy given them by this act, it shall be lawful for the mother, to make her complaint, on oath and in writing to any justice of the peace within the same county, and in her own name to prosecute her said complaint to effect, with all the privileges and powers which are by this act given to the overseers of the poor of any town in this state.

Competency of the witness.

SEC. 4. *And it is hereby further enacted*, That no woman shall be admitted as a witness as aforesaid, who hath been convicted of any crime, which would by law disqualify her from being a witness, in any other cause.

Woman dying or marrying, the reputed father be discharged.

SEC. 5. *Provided also, and it is hereby further enacted*, That if any woman, charging any man as aforesaid, shall die or be married before she be delivered; or if she shall miscarry of such child, or shall appear not to have been with child at the time of examination, unless the examination take place after the birth of said child, as is in this act provided, then and in every such case, such person shall be discharged from his recognizance by the next county court, to which he is recognized, or immediately released out of custody, by any justice of the county, by a warrant under his hand for that purpose, upon application and due proof thereof.

SEC. 6. *And it is hereby further enacted*, That it shall not be lawful for any justice of the peace, or other court of justice, to send for any woman, to be examined concerning her pregnancy, or supposed pregnancy, until one month after she shall be delivered, or to compel any such woman before she shall be delivered, to answer to any question relating to her pregnancy. Woman not compellable to appear till one month after delivery.

SEC. 7. *And it is hereby further enacted*, That every bastard child, (if the town to which such child may not be chargeable be not indemnified) may be bound an apprentice by the overseers of the poor of such town, for the time being, every male until he arrives at the age of twenty one years, and every female until she arrives at the age of eighteen years, and no longer: And the master or mistress shall be subject to the same conditions, as are prescribed in the case of an apprentice, by the act entitled, "An act defining what shall be deemed and adjudged a legal settlement, and for the support of the poor; for designating the duties of overseers of the poor, and for the punishment of idle and disorderly persons." Bastard child may be bound as an apprentice.

SEC. 8. *And it is hereby further enacted*, That the term TOWN made use of in this act, shall be descriptive of, and equivalent to, and understood to comprehend parish, district, city or other incorporated place, with town privileges. Term town extended to parish, &c.

SEC. 9. *Provided always, and it is hereby further enacted*, That when the mother of any bastard child, shall be of sufficient capacity and discretion, the overseers of the poor may employ such mother to nurse and provide for such child, for such length of time, as the reputed father shall stand chargeable with the payment of money for the maintenance of Overseers may provide the mother to provide for her child.

such child, and pay over such money to her accordiugly.

Passed February 27, 1797.

CHAPTER XIII.

An ACT *to enforce the due observation of the* Sabbath.

Preamble

CONSIDERING that in every community, some portion of time, ought to be set apart for relaxation from worldly labors and employments, and devoted to the social worship of Almighty God, and the attainment of religious and moral instruction, which are in the highest degree, promotive of the peace, happiness, and prosperity of a people: And whereas the first day of the week, commonly denominated the Sabbath, has at all times among Christians in general, been devoted to these important purposes; to the end, therefore, that the good people of this state, may be enabled, as well on that day, as on all proper occasions, freely and without disturbance, to perform those gerat and necessary duties, with that decency and solemnity, which is suitable to their importance—Therefore,

First day of the week to be observed as a sabba'h, holy day, or day of rest.

SECTION 1. IT *is hereby enacted by the General Assembly of the State of Vermont*, That the first day of the week, shall be kept and observed, by the good people of this state, as a sabbath, holy day, or day of rest, from secular labors and employments; nor shall any person or persons, between twelve o'clock of the night preceding, and the setting of the sun of the same day, exercise any secular labor, business, or employment, except such as necessity, and acts of charity, shall require; nor shall they use or exercise any games, sports,

Labor and recreation prohibited.

or plays, or hold or resort to any public assembly, except such as shall be holden for the purposes of social and religious worship, and moral instruction; nor shall any person or persons visit from house to house, unless for the purposes of religious, or moral conversation, instruction or edification, or from motives of humanity or charity; and any person herein offending, on conviction thereof, shall forfeit and pay to the treasury of the town, in which the offence is committed, a sum not exceeding two dollars. Penalty.

SEC. 2. *And it is hereby further enacted*, That if any person or persons, either on the sabbath, or at any other time, shall wilfully, or wantonly, disturb, or interrupt any assembly of people, met for the purposes of worshiping God, within or near the place of assembling, he or they shall severally forfeit, and pay to the treasury of the town, in which the offence shall be committed, a sum not less than five dollars, nor more than forty dollars. Disturbers of religious worship, how punished.

SEC. 3. *And it is hereby further enacted*, That if any person or persons, on the sabbath, shall behave rudely, or indecently, within the house or place in which people shall be assembled for social and religious worship, he or they shall severally forfeit, and pay to the treasury as aforesaid, a sum not exceeding two dollars. Penalty for behaving rudely or indecently in meeting.

SEC. 4. *And it is hereby further enacted*, That it shall be the duty of grand-jurors, tything men, and constables, within their respective towns, districts or parishes, to make due presentment of all offences against this act. Grand jurors &c. to make presentment of all breaches of this act.

SEC. 5. *And it is hereby further enacted*, That the parents of any children under age; the guardians of any minors; and the masters of any servants, shall be respectively liable for the fines and costs of their children, wards, or Parents, guardians and masters, to be liable

for minors and servants.

ſervants, who ſhall be convicted of any offence againſt this act; and it ſhall be the duty of the court or juſtice, before whom the trial ſhall be had, to cauſe ſuch parent, guardian, or maſter, to be notified of the time and place of trial, of ſuch perſon under age, minor or ſervant, that he may be preſent at the ſame, if he ſee cauſe; and if on conviction, ſuch parent, guardian or maſter ſhall not, within ſix days thereafter, pay the fine and coſts which he ſhall be adjudged, it ſhall be lawful for ſuch court or juſtice, to iſſue a warrant of diſtreſs and ſale of the goods and chattels, of ſuch parent, guardian or maſter, for the recovery thereof, and after diſtreſs as aforeſaid, if ſuch parent, guardian or maſter ſhall not within ſix days pay ſuch fine and coſts, ſale of ſuch goods and chattels, ſhall be made, and the overplus, if any there be, ſhall be reſtored to ſuch parent, guardian or maſter.

Parents, &c. to be notified.

Courts of juſtice to iſſue warrants of diſtreſs againſt parents. &c.

Juſtices may grant permits to travel, drive teams, and droves.

SEC. 6. *And it is hereby further enacted*, That if any perſon ſhall have neceſſary occaſion to travel, or drive any team, or drove, on the ſabbath, he may apply to any juſtice of the peace, who ſhall have power at his diſcretion, on conſideration of the circumſtances of the caſe, to grant ſuch perſon a permit in writing for that purpoſe, and ſuch perſon having ſuch permit, and travelling, or driving peaceably, on the Sabbath, ſhall be exempt from any penalty therefor.

Preſentments againſt this act to be made in thirty days.

SEC. 7. *And it is hereby further enacted*, That all preſentments or informations againſt any perſon or perſons, for any of the offences againſt this act, ſhall be made within thirty days after the commiſſion thereof, and not after, any thing herein contained to the contrary notwithſtanding.

Paſſed March 3, 1797.

CHAPTER XIV.

An ACT *to prevent forcible entry and detainer.*

SECTION 1. IT *is hereby enacted by the General Assembly of the ſtate of Vermont*, That no perſon or perſons, ſhall hereafter make any entry into any lands, tenements or other poſſeſſions, but in caſes where entry is given by the law, and in ſuch caſe not with ſtrong hand, nor with multitude of people, but only in a peaceable and eaſy manner; and if any perſon from henceforth do to the contrary, and thereof be duly convicted, he ſhall be puniſhed by fine.

Entry into lands and tenements not to be made with ſtrong hand.

SEC. 2. *And it is hereby further enacted*, That two juſtices of the peace, one of which ſhall be a judge of the county court, ſhall have authority to enquire by a jury, as is hereinafter directed, as well againſt thoſe who make unlawful and forcible entry into lands, tenements or other poſſeſſions, and with a ſtrong hand detain the ſame, as againſt thoſe who having a lawful and peaceable entry into lands and tenements, unlawfully and by force hold the ſame; and if it be found upon ſuch enquiry, that an unlawful and forcible entry hath been made, and that the ſame lands, tenements or other poſſeſſions are held and detained by force and ſtrong hand, or that the ſame after a lawful entry, are held unlawfully, and with force and a ſtrong hand, then that ſuch juſtices ſhall cauſe the party complaining to have reſtitution thereof.

Two juſtices of the peace one of which to be a judge of the county court, to enquire into forcible entry, &c.

And order reſtitution.

SEC. 3. *And it is hereby further enacted*, That when any complaint ſhall be formally made in writing, to any two juſtices of the peace, one of which ſhall be a judge of the county court as aforeſaid, of any ſuch unlawful or forcible entry or detainer, they ſhall if-

Mode of proceſs.

ſue a warrant, according to the form in this act preſcribed, directed to the ſheriff of the ſame county, or his deputy, commanding him to apprehend the perſon, againſt whom ſuch complaint ſhall be made, and to bring him or her, before the ſaid juſtices, at a day in ſuch warrant named, which ſhall not be leſs than ſix days from the time of iſſuing the ſaid warrant, and at a place therein mentioned; and they ſhall alſo iſſue a precept to the ſaid ſheriff, or deputy, commanding him to cauſe to come before them, twelve men, to be drawn and ſummoned, in the ſame manner as petit jurors to ſerve before the county and ſupreme courts, at a certain time and place in ſuch precept to be mentioned, and at the ſaid time and place appointed for trial, or hearing the ſaid complaint, and if a ſufficient number of jurors ſummoned by the ſheriff do not attend, the ſaid juſtices may order the ſheriff, or his deputy, to complete the number, by returning others forthwith, and the jury being empannelled, ſhall be ſworn well and truly to try the forcible entry or detainer complained of, and to return a true verdict thereof; and if the jury after a full hearing, find the perſon againſt whom the complaint is made, guilty of the forcible entty or detainer complained of, they ſhall all ſign their verdict, and the ſaid juſtices ſhall enter up judgment for the complainant to have reſtitution of the premiſes, and ſhall impoſe ſuch fine, not exceeding ten dollars, as they conſidering all the circumſtances, may think juſt, and ſhall tax coſt for the complainant, and may commit the perſon againſt whom the judgment is ſo made, until the fine be paid, and the ſaid juſtices ſhall alſo award their writ of reſtitution, according to the form preſcribed by law: But if the jury find that the perſon complained againſt, is not

guilty the complaint in their opinion not being ſupported, the ſaid juſtices ſhall tax coſt againſt the complainant, and iſſue execution accordingly.

Sheriff to leave a copy of warrant if he cannot apprehend.

SEC. 4. *And it is hereby further enacted*, That if the ſheriff or his deputy cannot find the party, againſt whom the warrant iſſued, he may ſix days before the time appointed for returning the ſame, leave a true and atteſted copy of ſaid warrant, at the uſual place of abode of ſuch perſon; and if at the return of the warrant, he ſhall not be able to find or apprehend the ſame perſon, againſt whom ſuch warrant iſſued, he ſhall make a return of ſuch facts, and that he hath ſo left a copy as aforeſaid, and when the ſame was done, and if the party doth not appear, at the time appointed for hearing the ſaid complaint, the ſaid juſtices may, in their diſcretion adjourn, or proceed *ex parte*, except that in this caſe, they ſhall not inflict any fine upon him; and in all caſes, they may in their writ of reſtitution, order the coſts taxed to be levied. But in every ſuch caſe if the jury do not find for the complainant, there ſhall be no coſt taxed for the party complained againſt, he not having appeared at the empannelling of the jury.

Court may adjourn or proceed *ex parte*.

Plantiff to recover treble damages.

SEC. 5. *And it is hereby further enacted*, That the complainant of any forcible entry and detainer as aforeſaid, who ſhall recover againſt the perſon complained of as aforeſaid, ſhall have right to recover treble damages, with coſt of ſuit, by an action of treſpaſs againſt the offender or offenders, to be brought for that purpoſe.

Limitation.

Provided always, That nothing in the foregoing part of this act, ſhall be conſtrued to extend to any perſon or perſons who have had the quiet, peaceable and uninterrupted

occupation of any lands, tenements, or other poſſeſſions, for the ſpace of three whole years, next before the entering ſuch complaint, any thing in this act to the contrary notwithſtanding.

Perſons holding overlands without force, liable as in caſe of forcible entry.

SEC. 6. *And it is hereby further enacted*, That when any perſon ſhall wilfully, and without force, hold over any lands, tenements or other poſſeſſions, after the determination of the time for which they are demiſed, or let to him, or to the perſon under whom he claims, or when any perſon wrongfully and without force, by diſſeiſin, ſhall obtain and continue in poſſeſſion of any lands, tenements, or other poſſeſſions, and after demand made in writing for the delivery of the poſſeſſion thereof, by the perſon having the legal right of ſuch poſſeſſion, his agent or attorney, ſhall refuſe or neglect to quit ſuch poſſeſſion, upon complaint thereof in writing, to two juſtices of the peace, one of which ſhall be a judge of the county court; the ſaid juſtices ſhall proceed to hear, try and determine the ſame, in like manner, as in caſes of forcible entry and detainer, and iſſue a writ of reſtitution accordingly.

Provided always, That in ſuch caſe the original proceſs ſhall be a ſummons, and the juſtices ſhall have no power to aſſeſs a fine on the perſon complained of.

Limitation.

SEC. 7. *Provided always, and it is hereby further enacted*, That the preceding ſection, ſhall not extend to any perſon who has, or ſhall have continued in poſſeſſion three years after the determination of the time for which the premiſes were demiſed, or let to him, or thoſe under whom he claims, or to any perſon who continues in poſſeſſion three years, quietly and peaceably by diſſeiſin; any thing herein contained to the contrary notwithſtanding.

SEC. 8. *And it is hereby further enacted,* That the complainant shall have right to an action of trespass, against the person complained of, and who on trial shall be found guilty, to recover treble damages, from the time of notice given to quit the premises; and till that time real damages only.

Complainant to recover treble damages.

SEC. 9. *And it is hereby further enacted,* That if either party, in a prosecution on this act, shall think him, or herself aggrieved, with the determination of the justices aforesaid, he or she, shall have liberty to appeal to the next supreme court of judicature, to be holden in the same county, in which the trial shall be had, whether stated or adjourned, giving security in the same manner, as provided in the case of appeals from the county court, to the supreme court of judicature.

Appeal allowed to the supreme court of judicature.

SEC. 10. *Provided nevertheless, and it is hereby further enacted,* That when it shall so happen, that the appellant in any action brought on this statute, shall fail, to bring forward his appeal, and enter the same in the court, to which said appeal is allowed, the appellee shall have the same liberty, to obtain an affirmation of the judgment rendered in the court below, as is given by law in cases of appeal from the county court, to the supreme court of judicature, in civil causes.

Appellant neglecting to enter his appeal, appellee to have judgment affirmed.

Passed February 27, 1797.

CHAPTER XV.

An ACT *relating to* fines, forfeitures, penalties *and* costs, *and directing the mode of taking* recognizances *in certain cases.*

SECTION 1. IT *is hereby enacted by the General assembly of the state of Vermont,* That every person who shall be fined

for the breach of any penal law, or for any other offence, ſhall forthwith pay ſuch fine together with coſts of proſecution, or give good and ſufficient ſecurity for the ſame, or ſhall by order of the court or juſtice of the peace before whom the trial ſhall be had, be impriſoned, or bound out and kept in ſervice, until the ſame be paid, or be liable to have his or her eſtate ſold therefor.

Penalty on perſons refuſing to pay fines.

SEC. 2. *And it is hereby further enacted*, That all fines, and penalties, impoſed on any perſon or perſons, in conſequence of any criminal proſecution, or for the breach of any penal law, originally commenced in the ſupreme court of judicature, ſhall, together with the coſts, belong and be paid into the ſtate's treaſury for the uſe of the ſtate.

Fines, penalties, and coſts, payable into ſtate's treaſury.

SEC. 3. *And it is hereby further enacted*, That all fines and penalties impoſed on any perſon or perſons, for any offence, or for the breach of any penal law, when the proſecution ſhall have been originally commenced before any county court in this ſtate, ſhall belong and be paid, together with coſts, to the county treaſury of the ſame county, for the uſe of ſuch county.

Fines, &c. payable into the county treaſury.

SEC. 4. *And it is hereby further enacted*, That all fines and penalties, which ſhall be impoſed on any perſon or perſons, for any offence, or for the breach of any penal law, when the proſecution ſhall be originally commenced, and tried before a juſtice of the peace, ſhall, together with coſts, belong and be paid to the town treaſury, in which the offence ſhall be committed, for the uſe of ſuch town.

Payable into the town treaſury.

Provided always, That if any ſuch fines, penalties, and coſts ſhall be otherwiſe diſpoſed of, by any expreſs law of this ſtate, the ſame ſhall be diſpoſed of according to the order of ſuch law.

Proviſo.

SEC. 5. *And it is hereby further enacted,* That when any part of a penalty, or forfeiture accruing by the breach of any penal law, ſhall be given to any one who ſhall proſecute the ſame to effect, and no private perſon ſhall appear to proſecute the ſame, the proſecution therefor, may be commenced on the complaint of any informing officer, or by information, or indictment, and the whole of ſuch penalty and forfeiture, ſhall belong and be paid, together with coſts, to the treaſury which the ſame would belong, had it been ſued for, by a common informer.

Qui tam action not proſecuted by a common informer, penalty how diſpoſed of.

SEC. 6. *And it is hereby further enacted,* That the coſts of proſecution, for the breach of any penal law, or for any other offence, ſhall be paid out of the treaſury to, which the penalty by law belongs, and as well the judges of the ſupreme court of judicature, as the county courts reſpectively, and the ſeveral juſtices of the peace within this ſtate, are hereby empowered and directed, to draw orders on the reſpective treaſuries aforeſaid, for all ſuch coſts and expences, as ſhall accrue in proſecuting as aforeſaid, excepting for the court fees of the ſupreme court only, and the reſpective treaſurers are hereby directed to pay the ſame.

Coſts of proſecution to be paid out of the treaſury to which the penalty belongs.

Provided always, That when any perſon ſhall be complained of, or informed againſt for the breach of any penal law, or for any other offence, and ſhall be brought before a juſtice of the peace for examination, and on ſuch examination, ſhall by ſaid juſtice be acquitted or diſcharged, the coſts ariſing thereon ſhall be paid out of the treaſury of the town in which the examination ſhall be holden.

Coſts to be paid out of the town treaſury in certain caſes.

SEC. 7. *And it is hereby further enacted,* That when any perſon, other than an informing officer ſhall become proſecutor for the

Profecutor to enter his name and place of abode on the complaint &c.

breach of any penal law, or for any other offence, ſuch profecutor ſhall enter his or her name, and place of abode, at the foot of every complaint, information or indictment, in which he or ſhe ſhall become a profecutor as aforeſaid, and ſhall be holden to pay coſts on ſuch profecution, if coſts ſhall be adjudged,

Shall be liable to pay coſts.

and on conviction to receive coſts; and ſuch profecutor, ſhall before trial enter into one recognizance with ſurety, if the court ſhall ſo direct, to the treaſurer of the treaſury which would otherwiſe be liable for coſts, in ſuch ſum as the court or juſtice taking the ſame, ſhall direct, and another recognizance to the party complained of, informed againſt, or indicted, in the ſame manner as above, both of which ſhall be conditioned to profecute to effect, or on failure thereof to anſwer all ſuch coſts, as ſhall be incurred by ſuch profecution, as the court ſhall order.

To enter into a recognizance.

SEC 8. *And it is hereby further enacted*, That when any perſon, other than an informing officer as aforeſaid, ſhall become profecutor as aforeſaid, and the perſon profecuted ſhall be admitted to bail, the bail, bond or recognizance ſhall be taken as well to the treaſurer of the treaſury, into which the penalty or forfeiture would by law belong, as to the profecutor, and if ſuch bail, bond or recognizance ſhall become forfeited, ſuch treaſurer and profecutor, ſhall have the benefit of ſuch bond, or recognizance and either of them may profecute the ſame, and may recover thereon as the court may adjudge.

In profecuting by a common informer or bail bond to be taken to the treaſurer and profecutor.

SEC. 9. *And it is hereby further enacted*, That when any perſon ſhall be profecuted by any town, county or ſtate informing officer, or by indictment found by the grand jury, for any offence by common or ſtatute law, and ſuch perſon ſhall on trial be acquitted, by a

Coſts may be taxed on an acquittal in certain caſes.

jury, the court before which the trial ſhall be had, ſhall have power to tax him, or her with coſts, if it ſhall appear to the court that there was reaſonable ground for ſuch proſecution, otherwiſe the perſon proſecuted ſhall be diſcharged without coſts.

Paſſed March 6, 1797.

CHAPTER XVI.

An ACT *dividing the ſtate into* Probate Diſtricts, *and deſcribing the lines and boundaries thereof.*

IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That the lines, limits and boundaries of the ſeveral probate diſtricts in this ſtate, ſhall be as follows, namely, Probate diſtricts boundaries of.

The diſtrict of Bennington, ſhall conſiſt of all that part of Bennington county, lying and being ſoutherly of the following line namely, beginning at the ſouthweſt corner of the town of Arlington, from thence running eaſterly on the ſouth line of Arlington and Sunderland, to the eaſt line of Bennington county, Bennington diſtrict.

The diſtrict of Manchester, ſhall conſiſt of all that part of ſaid county of Bennington, ſituate, lying and being northerly of the ſouth lines of ſaid towns of Arlington and Sunderland aforeſaid. Manchester diſtrict.

The diſtrict of Rutland, ſhall conſiſt of all that part of Rutland county, lying eaſterly of the following line, namely, beginning at the ſoutheaſt corner of the town of Pawlet, from thence running northerly, on the eaſt lines of the towns of Pawlet, Wells, Poultney, Caſtleton, Hubbardton and Sudbury, to the north line of ſaid county of Rutland. Rutland diſtrict.

Fairhaven district. The District of Fairhaven, ſhall conſiſt of all that part of ſaid county of Rutland, lying weſterly of the line aforeſaid.

Addiſon diſtrict. The diſtrict of Addiſon, ſhall conſiſt of all that tract, deſcribed in the lines of the county of Addiſon.

Chittenden diſtrict. The diſtrict of Chittenden, ſhall conſiſt of all that tract, deſcribed in the lines of the county of Chittenden.

Georgia diſtrict. The diſtrict of Georgia, ſhall conſiſt of all that part of the county of Franklin, lying and being eaſt of the eaſterly banks of lake Champlain.

Alburgh diſtrict. The diſtrict of Alburgh, ſhall conſiſt of all that part of Franklin county, lying weſt of the eaſt bank of lake Champlain aforeſaid.

Orleans diſtrict. The diſtrict of Orleans, ſhall conſiſt of all that tract, deſcribed in the lines of the county of Orleans.

Marlboro'diſtrict The diſtrict of Marlborough, ſhall conſiſt of all that part of Windham county, lying and being ſituate ſoutherly and weſterly of the following line, namely, beginning at the northeaſt corner of Dummerſton, from thence weſt on the north line of ſaid Dummerſton, and on the eaſt and north lines of the towns of Newfane, Wardſborough and Stratton to the weſt line of ſaid county.

Weſtminſter diſtrict. The diſtrict of Weſtminſter, ſhall conſiſt of all that part of Windham county, lying and being northerly of ſaid line.

Windſor diſtrict. The diſtrict of Windſor, ſhall conſiſt of all that part of Windſor county, lying ſoutherly of a line, beginning at the northeaſt corner of the town of Windſor, from thence weſterly on the north lines of Windſor, Reading and Saltaſh, to the weſt line of ſaid county.

Hartford diſtrict. The diſtrict of Hartford, ſhall conſiſt of all that part of ſaid county of Windſor, lying and being northerly of the line aforeſaid.

The diſtrict of Bradford, ſhall conſiſt of all that part of Orange county, ſituate, lying and being eaſterly of the following line, beginning at the ſouth weſt corner of the town of Strafford, from thence northerly on the weſt lines of Strafford, Verſhire, Corinth and Topſham to the north line of ſaid county of Orange. Bradford diſtrict.

The diſtrict of Randolph, ſhall conſiſt of all that part of Orange county, lying and being weſterly of the line deſcribed aforeſaid. Ran. dolph diſtrict.

The diſtrict of Caledonia, ſhall conſiſt of all that tract, deſcribed in the lines of the county of Caledonia. Caledonia diſtrict.

And the diſtrict of Eſſex, ſhall conſiſt of all that tract deſcribed in the lines of the county of Eſſex, Eſſex diſtrict.

Paſſed February 25, 1797.

CHAPTER XVII.

An ACT *for the probate of* wills *and the ſettlement of* teſtate *and* inteſtate *eſtates.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont,* That every perſon lawfully ſeized of any lands, tenements, or hereditaments, within this ſtate, in his or her own right in fee ſimple, or for the life or lives of any other perſon, or perſons, and being of full age, to wit, a male of the age of twenty-one years, and a female of the age of eighteen years, and upwards, and of ſound mind, ſhall have power to give, diſpoſe of, and deviſe the ſame, as well by laſt will and teſtament in writing, as other ways, by any act executed in his or her life time, to and among his or her children or otherwiſe, as he, or ſhe ſhall think fit. And that all deviſes of any eſtate in lands, tenements and hereditaments ſhall be in writing, and ſealed by the Eſtates real may be diſpoſed of by will.

Wills to be in writing ſealed, ſigned and witneſſed by three witneſſes.

party deviſing the ſame, and ſigned by him, or her, or by ſome perſon, in his or her preſence, and by his or her expreſs direction, and ſhall be atteſted and ſubſcribed in the preſence of ſaid deviſor, by three or more, credible witneſſes, all ſigning in the preſence of the teſtator, or the ſame ſhall be void, and of none effect.

How revocable.

And no deviſe in writing of lands, tenements, and hereditaments, or any clauſe thereof ſhall be revocable, otherway, than by ſome other will, or codicil in writing declaring the ſame, or by burning, cancelling tearing or obliterating the ſame, by the teſtator himſelf, or in his preſence, and by his direction and conſent; but all deviſes and bequeſts of lands, tenements and hereditaments, ſhall remain and continue in full force, unleſs the ſame be burnt, cancelled, torn or obliterated, by the teſtator, or by his direction in manner aforeſaid; or unleſs the ſame be altered by ſome other will, or codicil, or other writing of the deviſor, ſigned in the preſence of three, or more, witneſſes, declaring ſuch alteration.

Nuncupative will, when valid.

SEC. 2. *And it is hereby further enacted*, that no nuncupative will, which will ſhall be allowed for the diſpoſition of perſonal eſtate only ſhall be good, when the eſtate thereby bequeathed, ſhall exceed the value of two hundred dollars, that is not proved by the oath of three witneſſes, or more, who were preſent at the making thereof, nor unleſs it be proved that the teſtator at the time of promiſing the ſame, directed the perſons preſent or ſome of them, to bear witneſs, that ſuch was his will, or to that effect, nor unleſs ſuch nuncupative will were made in the laſt ſickneſs of the deceaſed, and in the houſe of his or her habitation or dwelling, or where he, or ſhe had been reſident for the ſpace of ten days, or more, next before the making of ſuch will, except

where ſuch perſon was unexpectly taken ſick, being from home, and died before he or ſhe returned to the place of his or her habitation.

SEC. 3. *And it is hereby further enacted*, That after ſix months paſſed from the ſpeaking the pretended teſtamentary words, no teſtimony ſhall be received to prove any nuncupative will, except ſaid teſtimony or the ſubſtance, thereof, be committed to writing within ſix days after making ſaid will. How proved.

SEC. 4. *And it is hereby further enacted*, That no letters teſtamentary, or probate of any nuncupative will, ſhall paſs the ſeal of any court of probate, until fourteen days, at leaſt, after the deceaſe of the teſtator be fully expired nor ſhall any nuncupative will be at any time approved and allowed, unleſs proceſs ſhall have firſt iſſued to call in the widow or next of kin to the deceaſed, or other perſon or perſons principally intereſted, if reſident within this ſtate, to the end they may conteſt the ſame if they pleaſe, which proceſs ſhall be by citation ſigned by the judge. No nuncupative will to be proved under fourteen days after the deceaſe of the teſtator. The widow or next of kin to be cited.

SEC. 5. *And it is hereby further enacted*, That no will in writing concerning any goods and chattels, or perſonal eſtate, ſhall be repealed or revoked, nor ſhall any clauſe or bequeſt therein, be altered or diſcharged by any words, or by any nuncupative will only, except the ſame be in the life time of the teſtator committed to writing, and read to him, and be proved ſo to be done by three witneſſes at leaſt. No written will concerning goods &c. to be revoked but by writing.

Provided always, any ſoldier being in actual military ſervice; or any mariner, or ſeaman, being at ſea, may diſpoſe of his moveables, wages and perſonal eſtate, as he might have done before the paſſing of this act.

SEC. 6. *And it is hereby further enacted*, That when any child ſhall be born after the death of the father, or after the making and Wills not to bar

posthumous children.

publiſhing any will by the father, without having any proviſion made in his will, every ſuch child ſhall have right and intereſt, in his or her father's eſtate, in like manner as if he had died inteſtate, and the judge of probate ſhall iſſue his warrant as in caſes of inteſtates, to aſſign to ſuch child, a ſhare in ſaid eſtate, equal to what he or ſhe would have inherited, had the father died inteſtate, and the ſame ſhall be taken in proportion from the deviſees and legatees, who own the eſtate by virtue of ſuch will.

Not to be proved unleſs executed with the legal formalities.

SEC. 7. *And it is hereby further enacted*, That no will or inſtrument in writing hereafter offered for probate, which purports a diſpoſition of real and perſonal eſtate, not being executed with the formalities aforementioned, ſhall be approved or conſidered of validity, to paſs or convey any ſuch eſtate or eſtates whatever.

Eſtates not deviſed how diſtributed.

SEC. 8. *And it is hereby further enacted*, That the eſtate real and perſonal which is not deviſed or bequeathed in the laſt will and teſtament of any perſon hereafter to be proved, ſhall be diſtributed in the ſame manner, as if it were an inteſtate eſtate, and the executor or executors, ſhall adminiſter the ſame accordingly.

SEC. 9. *And for removing all doubts in the atteſtation of wills*,

Deviſee atteſting a will may be admitted as a witneſs but the deviſe void as to him.

It is hereby further enacted, That if any perſon ſhall atteſt the execution of any will or codicil, to whom any beneficial deviſe, legacy, eſtate, intereſt gift or appoinment, of or affecting any real or perſonal eſtate, other than, and except charges on lands, tenements and hereditaments, for the payment of any debt, or debts, ſhall be thereby given or made, ſuch deviſe, legacy, eſtate, intereſt, gift or appoinment, ſhall ſo far only as concerns ſuch perſons, atteſting the execution of ſuch will, or codicil, or any perſon claiming under him, be

utterly null and void, and such person shall be admitted as a witness to the execution of such will or codicil, notwithstanding such devise, legacy, estate, interest, gift or appointment, mentioned in such will or codicil. *Provided* no heir at law shall be admitted to give evidence to the execution of such will.

Heirs at law not to give evidence.

SEC. 10. *And it is hereby further enacted*, That when any lands, tenements, or hereditaments, are in any will or codicil charged with the payment of debts; and any creditor whose debt is so charged, hath attested the execution of such will or codicil, such creditor, notwithstanding, shall be admitted and deemed a legal witness to the attestation of such will or codicil.

Creditor attesting a will a good witness to prove the will.

SEC. 11. *And it is hereby further enacted*, That when any person hath attested the execution of any will or codicil, to whom any legacy is thereby given, whether charged upon lands, tenements or hereditaments, or not; and such person having been paid, or having accepted, or released, or having refused to accept, upon tender thereof made, such person shall be admitted and deemed a legal witness to the execution of such will or codicil.

Legatee being paid or refusing his legacy a good witness to prove the will.

SEC. 12. *And it is hereby further enacted*, That in case of such tender and refusal as aforesaid, such person shall not be entitled to such legacy or bequest, but be barred therefrom; and in case of such acceptance, as aforesaid, such person shall retain to his own use, the legacy or bequest so paid and accepted, notwithstanding such will or codicil shall afterwards be adjudged or determined to be void for any defect whatever.

Tender and refusal of a legacy shall bar the legatee.

SEC. 13. *And it is hereby further enacted*, That in case any such legatee as aforesaid, who hath attested the execution of any will or codicil, shall have died, in the life time of the

Legatee attesting and dying

considered as a legal witness.

testator, or before he shall have received, or released; the legacy or bequest so given him, or before he shall have refused to receive such legacy or bequest, on tender thereof made, such legatee shall be deemed a legal attesting witness to the execution of such will or codicil.

Credibility of witnesses to be considered as in other cases.

Provided always, That the credit of every witness attesting any will or codicil, in any of the cases mentioned in this act, and all circumstances relating thereto, shall be subject to the consideration and determination of the court or jury, before whom any such witness shall be examined, or his testimony or attestation made use of, in like manner as the credit of witnesses in all other cases, ought to be considered and determined.

Devisee or legatee shall not after examination receive any compensation.

SEC. 14. *And it is hereby further enacted*, That no person to whom any beneficial estate, interest, gift or appointment shall be given or made, which is hereby enacted to be null and void as aforesaid, or who shall have refused to receive any such legacy or bequest, or tender made as aforesaid, and who shall have been examined as a witness concerning the execution of such will or codicil, shall, after he shall have been so examined, demand or take possession of, or receive any profits or benefits of, or from any such estate, interest, gift or appointment so given or made to him, in or by any such will or codicil, or demand, receive or accept, from any person or persons whomsoever, any such legacy or bequest, or any satisfaction or compensation for the same, in any manner, or under any colour or pretence whatever.

Executors to cause probate of

SEC. 15. *And it is hereby further enacted* That if any executor, or executors of the last will of any person deceased, knowing of his, her or their being so named, or appointed,

shall not within thirty days next after the decease of the testator, cause such will to be proved, and recorded in the register of probates office, of the district in which the deceased person last dwelt, or present the said will and declare in writing his, her or their refusal of the executorship, every executor so neglecting his or her trust, or duty in that behalf, (without just excuse made and accepted by the judge of probate for such delay) shall forfeit the sum of ten dollars *per* month, from and after the expiration of the thirty days, until he, she or they shall cause probate of such will to be made or present the same as aforesaid. And upon such refusal of the executor or executors, or on his, her or their refusal to give bond, with sufficient surety, for the faithful discharge of his, her or their trust, the court of probate shall grant administration of the estate of the deceased, with the will annexed, unto the widow, or next of kin, to the deceased, or to one or more of the devisees, and upon their refusal, incapacity or absence from the state, to one or more of the principal creditors, as the court shall judge proper.

wills to be made in thirty days.

Penalty for neglect.

Upon refusal letter of administration to be granted with the will annexed.

SEC. 16. *And it is hereby further enacted*, That every executor or executrix, named in any will hereafter to be proved, and taking upon him or herself that trust, by proving the same, shall give bond to the judge of probate with sufficient surety or sureties, to return upon oath, a true and perfect inventory of the estate of the testator, into the probate office, within such time as the judge of probate shall direct, and to render an account of his or her proceedings thereon, in the same manner as administrators are by law obliged to do, unless such executor or executors are residuary legatees, in which case bond may be given by him, her or them to pay the debs and legacies of the tes-

Executors to give bond.

tator. And in caſe any executor or executors, ſhall neglect or refuſe for the ſpace of twenty days, to give bond as aforeſaid, the judge of probate may commit adminiſtration of the eſtate of the teſtator, with the will annexed, to ſome other perſon, in like manner as he may grant the ſame, when the executor refuſes the truſt; and when the executor is under the age of twenty-one years, at the time of proving the will, adminiſtration may be granted with the will annexed, during the minority of ſuch executor: And when divers perſons are named executors in any will hereafter to be proved, no perſon ſhall intermeddle, and act as ſuch, except thoſe who give bond as aforeſaid.

On neglect or refuſal letters of adminiſtration may be granted with the will annexed.

No executor to act until he gives bonds.

SEC. 17. *And it is hereby further enacted*, That when any executor or executors, of any laſt will and teſtament, ſhall reſide without the limits of this ſtate, at the time of taking upon him, her or them that truſt or ſhall afterwards remove out of this ſtate, and ſhall neglect or refuſe, after due notice from the judge of probate, when ſuch notice can reaſonably be given to render his account, and make a ſettlement of ſuch eſtate with the creditors, legatees, or heirs or their legal repreſentatives, or when any executor of any laſt will and teſtament, ſhall become inſane, or otherwiſe incapable or inſuitable to diſcharge the truſt, the judges of probate within their reſpective diſtricts, obſerving the rules aforeſaid, are hereby authoriſed, on due proof thereof, to decree, that the powers of ſuch executor, or executors, ſhall ceaſe; and thereupon to grant letters of adminiſtration with the will annexed, of the eſtate not adminiſtered to ſuch perſon or perſons as the ſaid judge ſhall think proper, and the adminiſtrator or adminiſtrators thus appointed, ſhall have the ſame power and au-

Executors reſiding without the ſtate or becoming inſane &c. the judge to grant letters &c. to other perſons.

thority to adminiſter the eſtate of the deceaſed, not adminiſtered by ſuch former executor or executors, and be ſubject to the ſame duties, as if ſaid executor or executors were actually dead. And when a *feme ſole* ſhall with one or more perſons, be appointed executrix, and after ſuch appointment ſhall, during the life of her co-executor, marry, ſuch marriage ſhall not make her huſband an executor in her right, but ſhall operate as an extinguiſhment of ſuch woman's power, and the other executor or executors may proceed in diſcharging the truſt, in the ſame manner as if the woman were dead. And the executor of an executor, ſhall not in conſequence thereof, become the executor of the firſt teſtator, but in every ſuch caſe adminiſtration may be granted (if circumſtances require it) upon the goods and eſtate of the firſt teſtator, not adminiſtered with the will annexed, to ſuch perſon or perſons, as the ſaid judge of probate ſhall think proper, he obſerving the rules for granting adminiſtration as above mentioned, any law, uſage or cuſtom to the contrary notwithſtanding. And in all caſes in which adminiſtration ſhall be granted, with a will or teſtament annexed, the will of the deceaſed, in ſuch will or teſtament, ſhall be obſerved and performed.

Feme ſole marrying, her power as executrix extinguiſhed.

An executor of an executor ſhall not in conſequence thereof be an executor to the firſt teſtator.

SEC. 18. *And it is hereby further enacted*, That the executor or executors, named by the teſtator of any laſt will and teſtament; or any other perſon or perſons, to whom the adminiſtration of the eſtates of perſons deceaſed, ſhall be committed, with the will annexed; ſhall cauſe to be made a true and perfect inventory of all the eſtate, both real and perſonal, of the deceaſed, and ſuch inventory being made, the judge ſhall appoint a committee or committees, to conſiſt of two or more judicious and

Executor or adminiſtrator, with the will annexed, to cauſe inventory and appraiſal to be made

diſintereſted perſons, to make an appraiſal of the ſame, who ſhall be under oath for the faithful diſcharge of their truſt, and when the appraiſal ſhall be ſo made, it ſhall be the duty of the committee or committees to make two atteſted copies of the ſame, agreeably to their appraiſal, one of which ſhall be delivered by the executors or adminiſtrators to the judge of probate, and the other ſhall remain with ſuch executors or adminiſtrators as aforeſaid.

Perſons aggrieved with the appraiſal may have relief.

SEC. 19. *And it is hereby further enacted*, That if any of the deviſees, legatees, heirs, creditors or others intereſted in the eſtate of the deceaſed, are diſſatisfied by the appraiſal of the eſtate made as aforeſaid, or any part thereof, he, ſhe or they, ſo diſſatisfied, may within thirty days after ſuch appraiſal, complain to the judge of probate who proved the will, or granted adminiſtration thereon, and ſuch judge is hereby empowered in his diſcretion, to appoint ſix judicious and diſintereſted perſons, who ſhall be under oath to make a new appraiſal of ſaid eſtate, in whole or in part, as the caſe may require, at the then true value and worth thereof, in money, according to their beſt judgment, and ſhall make an inventory thereof, and deliver the ſame in manner aforeſaid: And the ſaid executor or executors, adminiſtrator or adminiſtrators ſhall be accountable for ſuch eſtate according to the appraiſal ſo made by the ſix men as aforeſaid,

Executors or adminiſtrators to exhibit the inventory in two months.

SEC. 20. *And it is hereby further enacted*, That if the executor or executors of any laſt will or teſtament preſented for probate, or any adminiſtrator or adminiſtrators appointed thereon as aforeſaid, ſhall not within the ſpace of two months next after the probate of ſuch laſt will and teſtament, cauſe ſuch inventory and appraiſal to be made as aforeſaid, and the ſame to be exhibited to the ſaid judge of pro-

bate by whom the ſaid will was approved, to be recorded, every executor or adminiſtrator, ſo neglecting his or her truſt, ſhall forfeit the ſum of ten dollars per month, from and after the ſaid two months are expired, until he or ſhe ſhall inventory the ſaid eſtate, and exhibit the ſaid inventory and appraiſal as aforeſaid, unleſs he or ſhe can ſhew to the ſaid judge of probate ſufficient reaſons for ſuch delay.

Penalty for neglect.

SEC. 21. *And it is hereby further enacted*, That every forfeiture, as well for not cauſing the will to be proved, as for not exhibiting an inventory and appraiſal as aforeſaid, ſhall belong to him, her or them, who ſhall proſecute for the recovery thereof, to effect, by action brought on this ſtatute, in any court proper to try the ſame.

Penalties and forfeitures how and by whom recovered.

SEC. 22. *And it is hereby further enacted*, That when and ſo often as any deviſee, (or his or her guardian) who holds any real eſtate in partnerſhip with any perſon or perſons by virtue of any laſt will and teſtament, ſhall make application to the judge of probate, in the diſtrict in which the will was proved, for a partition thereof, it ſhall and may be lawful for ſuch judge to order partition to be made of the whole of the real eſtate ſo deviſed, or that part of it, the partition whereof is requeſted, to and among the deviſees, according to the will of the teſtator, by a committee of three judicious and diſintereſted perſons, to be appointed by the ſaid judge, notice being firſt given to all concerned, to be preſent at the making of ſuch partition, if they ſee cauſe; which partition being made and returned to the judge, under the hands of the ſaid committee, or the major part of them, upon oath to their fidelity and impartiality therein, and by him approved, ſhall be valid in law, to all intents and purpoſes, unleſs upon the appeal of

Judge of probate upon application, may order diviſion to be made of eſtate in part.

any perſon diſſatisfied with the partition ſo made, the ſame ſhould be reverſed, or altered by the ſupreme court of judicature.

May order partition to be made of real eſtate lying in common.

SEC. 23. *And it is hereby further enacted*, That when any real eſtate deviſed by will, lies in common and undivided with other real eſtate, it ſhall and may be lawful for the judge of probate, to order and direct ſuch committee, firſt to make partition between the eſtate deviſed, and any other land or real eſtate lying in common therewith, in the ſame manner, as is herein after provided, for dividing inteſtate eſtates, from any other with which they may lie in common, *provided*, that no partition ſhall be made as aforeſaid, when the proportion of the deviſees, or any of them ſhall be diſputable and uncertain—*Provided alſo*, that if any of the perſons intereſted are minors, or *non compos mentis*, or are otherwiſe incapacitated to take care of their eſtates, or ſhall be out of the ſtate, guardians ſhall be firſt appointed for ſuch minors, perſons *non compos mentis*, or otherwiſe incapacitated, and ſome diſintereſted perſon ſhall be appointed by the judge to repreſent and act for ſuch abſent party.

Not allow account of executors or commiſſioners till notice be given to the heirs.

SEC. 24. *And it is hereby further enacted*, That the judge of probate before he ſhall allow the account of any executor, or adminiſtrator with the will annexed, relating to the execution of his or their truſt, ſhall cauſe the heirs of ſuch eſtate, or ſuch of them as he ſhall judge neceſſary, to be notified in ſuch manner as he ſhall think moſt proper, of the time and place for examining and allowing ſuch account.

Perſons dying inteſtate, judge of

SEC. 25. *And it is hereby further enacted*, That after the deceaſe of any perſon inteſtate, the judge of probate for the diſtrict wherein ſuch perſon was laſt an inhabitant, ſhall grant

administration of the intestate's estate unto the widow or next of kin to the intestate, (upwards of twenty one years of age) or to both as the said judge shall think best, within thirty days. And after the expiration of thirty days from the death of any person intestate, if the widow or next of kin neglect to apply for administration, the said judge shall cause them to be cited to take the same, and if they neglect or refuse to administer accordingly, he shall grant administration to one or more of the principal creditors, or others, on their refusal, as he shall think proper.

Probate to grant letters of administration to the widow, or next of kin.

SEC. 26. *And it is hereby further enacted*, That every administrator shall, before he or she enters upon the execution of his or her trust, give bond to the judge of probate, and his successors in office, with one or more sufficient sureties, in his discretion, in a reasonable sum; which bond shall be conditioned in the form following—viz.

Administrator to give bond with surety.

"The condition of the above obligation is such that if the above bounden A. B. administrator of all and singular the goods, chattels, rights, credits and estate of G. D. deceased, do make or cause to be made a true and perfect inventory of all and singular the goods, chattels, rights, credits and estate, of the said deceased, which have, or shall come to the hands, possession, or knowledge of the said A. B. or into the hands or possession of any other person or persons for him, and the same do exhibit, or cause to be exhibited, into the registry of the said court of probate, in the district of at or before the day of next ensuing, and the same goods, chattels, rights, credits and estate, and all other of the goods, chattels, rights, credits and estate of the said deceased, at the time of his death, which at any time af-

Condition.

ter ſhall come into the hands or poſſeſſion of the ſaid A. B. or into the hands or poſſeſſion of any perſon or perſons for him, do well and truly adminiſter according to law—And further, do make or cauſe to be made, a true and juſt account of his ſaid adminiſtration, at or before the day of and all the reſt and reſidue of the ſaid goods, chattels, rights, credits and eſtate which ſhall be found remaining upon the ſaid adminiſtrators, account, (the ſame being firſt examined and allowed by the ſaid court of probate) ſhall deliver or pay unto ſuch perſon, or perſons, reſpectively, as the ſaid court of probate, by their decree or ſentence, purſuant to the true intent and meaning of the law, ſhall limit and appoint; and if it ſhall hereafter appear that any laſt will and teſtament, was made by the ſaid deceaſed, and the ſame ſhall be exhibited in court, with requeſt to have it allowed and approved, if the ſaid A. B. being thereunto required; do render and deliver the ſaid letters of adminiſtration, (approbation of ſuch teſtament being firſt had and made) into the ſaid court, then this obligation to be void and of none effect, or elſe to remain in full force and virtue."

Shall cauſe an inventory to be made in three months.

And the ſaid adminiſtrator or adminiſtrators, ſhall cauſe an inventory and appraiſal of all the eſtate of ſuch deceaſed inteſtates, as well real as perſonal, to be made and exhibited within three months, in the ſame manner as is before made the duty of executors and adminiſtrators with the will annexed, and on default thereof, be liable to the ſame forfeitures—And if any perſon ſhall be diſſatisfied with the inventory and appraiſal ſo made and exhibited, he or ſhe ſhall have the ſame remedy, and the ſame proceedings ſhall be had, in all things as is before provided in this act, in

Perſons aggrieved to have relief.

caſe of executors and adminiſtrators, with the will annexed.

SEC. 27. *And it is hereby further enacted*, That when any perſon ſhall die, ſeized of any lands, tenements or hereditaments, within this ſtate, not by him deviſed, the ſame ſhall deſcend to his children, or their legal repreſentatives, if any of the children be dead, in ſuch manner that the portions of all the male children ſhall be equal, and the portions of all the female children ſhall be equal; and the portion of a male child ſhall be double the portion of a female child: And if any child ſhall have been advanced by way of ſettlement, or otherwiſe, by the inteſtate in his life time, ſuch advancement ſhall be reckoned to the ſhare of ſuch child, either in whole or in part, according to the value thereof, at the time of ſuch advancement; and if the inteſtate ſhall have no child or children at the time of his deceaſe, ſuch eſtate ſhall deſcend equally to the next of kin in equal degree, and thoſe who repreſent them.

Real eſtate of inteſtate deſcend of.

Provided always, That no perſon ſhall be admitted as a legal repreſentative of collaterals beyond the degrees of brother's and ſiſter's children, but for the want of legal heirs, the eſtate of ſuch inteſtate, ſhall eſcheat to the ſtate.

SEC. 28. *Provided alſo, and it is hereby further enacted*, That when a man ſhall have one or more children, by a woman, and ſhall afterwards intermarry with ſuch woman, ſuch child or children, if recognized by him, ſhall be thereby legitimated, and capable of inheriting: And baſtards ſhall alſo be capable of inheriting and tranſmitting inheritance on the part of the mother, in like manner as if they had been lawfully begotten of ſuch mother.

Baſtard children legitimiſed to inherit.

Deſcent of deceaſed minors eſtate.

SEC. 29. *Provided alſo, and it is hereby further enacted*, That if any child of an inteſtate die before he or ſhe ſhall arrive at full age, and unmarried, ſuch deceaſed child's portion or ſhare ſhall deſcend to the ſurviving brothers and ſiſters, and ſuch as legally repreſent them, in proportion as is above directed in this act, but if ſuch child die after having arrived at full age, unmarried and inteſtate in the life-time of the mother, ſhe ſhall inherit equally with every ſiſter.

Deſcent after arriving at full age and unmarried.

Perſons dying without iſſue deſcent of eſtate.

SEC. 30. *Provided alſo, and it is hereby further enacted*, That if any perſon ſhall die inteſtate after marriage, or becoming of full age without lawful iſſue, the father being alive, he ſhall be entitled to the whole eſtate of ſuch inteſtate, unleſs he leave a widow, in which caſe, and alſo where no father be living at the time of the deceaſe of ſuch inteſtate, ſhe ſhall be entitled to one half of the real and perſonal eſtate forever, after the payment of debts and other charges and expences, as is hereafter provided, which ſhall be in lieu of her dower—And in caſe the mother be living and no father at the time of ſuch deceaſe, ſhe ſhall be entitled to an equal ſhare of the eſtate with the ſiſters of ſuch inteſtate, or their legal repreſentatives.

Perſonal eſtate to be diſtributed in the ſame manner as real eſtate.

SEC 31. *And it is hereby further enacted*, That when any perſon ſhall die poſſeſſed of any goods or perſonal eſtate, not bequeathed, the ſame ſhall be diſtributed in the manner real eſtates deſcend by this act.

Perſonal eſtate to ſtand chargeable with the payment of debts, &c. Widow's portion.

Provided nevertheleſs, That ſuch goods or perſonal eſtate ſhall ſtand chargeable with the payment of the debts and funeral charges of the inteſtate, and after payment thereof, the judge of probate ſhall decree one third part of the ſurpluſage (if any there be) to the widow of the inteſtate forever, unleſs he died without

iſſue, in which caſe ſhe ſhall have one half thereof forever—And if the perſonal eſtate ſhall be inſufficient to pay the debts and funeral charges, the widow ſhall be entitled to her apparel, and ſuch other perſonal eſtate, as the judge of probate ſhall think proper, according to her quality and degree, and if the perſonal eſtate ſhall be inſufficient to pay the debts of the inteſtate, the real eſtate ſhall ſtand chargeable therewith, or ſuch part thereof as the perſonal eſtate ſhall not be ſufficient to pay.

Perſonal eſtate inſufficient, real eſtate chargeable with debts.

SEC. 32. *And it is hereby further enacted*, That the widow of any inteſtate ſhall in all caſes be entitled to dower, or the uſe of one third of the real eſtate of which ſuch inteſtate died ſeized, and poſſeſſed in his own right, provided ſhe has not otherwiſe been endowed by way of jointure before marriage, for and during the term of her natural life, and may recover the ſeiſin of the ſame as the law directs, but the widow who ſhall be thus endowed by way of jointure may wave her jointure, and demand her dower.

Widow entitled to dower in the real eſtate

May wave her jointure and demand dower.

SEC. 33. *And it is hereby further enacted*, That after the payment of the debts, funeral charges and expences incurred in the ſettlement of ſuch eſtate, to be allowed by the judge of probate, the ſaid judge ſhall cauſe the ſurpluſage or reſidue of ſuch eſtate, as well real as perſonal, whether ſituate in the diſtrict of which he is judge, or in any other diſtrict in this ſtate, to be divided, and partition thereof to be made among the widow, children and grand-children or heirs as this act directs.

Portion to be made after payment of debts, &c.

SEC. 34. *Provided nevertheleſs, and it is hereby further enacted*, That the ſurpluſage of every inteſtate eſtate, after the payment of the debts, charges and expences as aforeſaid, ſhall

Children to be ſupported out of ſurpluſage, till ſeven years of age, after that out of his or her ſhare.

be ſubject to the ſupport of each child, until he or ſhe ſhall arrive to the full age of ſeven years, and after that age, each child ſhall receive his or her ſupport out of his or her particular portion, or ſhare, the account of which ſupport to be allowed by the judge of probate —And every one to whom any portion or ſhare ſhall be allotted, ſhall give bond with ſureties, before the ſaid judge of probate, (if any debts do afterwards appear) to refund and pay back to the adminiſtrator his or her juſt proportion of ſuch debts and of the adminiſtrator's charges.

Deeds of land, &c. when charged, how to be conſidered in the diviſion.

SEC. 35. *And it is hereby further enacted*, That any deed of lands, or tenements, made for love and affection, or where any perſonal eſtate delivered to a child ſhall be charged in writing by the inteſtate, or by his order, or a memorandum made thereof, or delivered expreſsly for that purpoſe, before two witneſſes, who were requeſted to take notice thereof, the ſame ſhall be deemed and taken an advancement to ſuch child or children to the value thereof, within the intent of this act.

Executors or adminiſtrators may notify demands to be exhibited.

SEC. 36. *And it is hereby further enacted*, That the executors or adminiſtrators of any eſtate, may publiſh a notification, under the direction of the judge of probate, requiring all perſons having any demands on ſuch eſtate, to bring in their claims within ſuch time, as the ſaid judge ſhall appoint, not exceeding two years, which notification ſhall be poſted and publiſhed in ſuch manner and in ſuch places, as the ſaid judge ſhall direct, ſo as moſt effectually to notify the creditors; and every creditor, who ſhall not exhibit his debt, or demand againſt ſuch eſtate, to the executors or adminiſtrators within the time limited by ſaid judge, ſhall be forever barred his, her, or their debt or demand.

Creditors neglecting to exhibit their claims to be debarred.

SEC. 37. *And it is hereby further enacted*, That when any adminiſtrator or adminiſtrators of any inteſtate, ſhall die or abſcond, or become *non compos mentis*, or otherwiſe incapacitated to execute their truſt, the judge of probate granting adminiſtration, ſhall have power, and is hereby authorized to grant adminiſtration of ſuch inteſtate's eſtate, not adminiſtered, to ſuch perſon as he ſhall think proper, and ſuch adminiſtrator ſhall proceed in all things in the ſettlement of ſuch eſtate, as is before directed in this act.

Adminiſtrator dying, abſconding &c. judge may grant adminiſtration *de bonis non*.

SEC. 38. *And it is hereby further enacted*, That if any judgment hath been, or ſhall be had, by or in the name of any executor or executors, or adminiſtrator or adminiſtrators, who ſhall be dead, or otherwiſe incapacitated as aforeſaid, in every ſuch caſe an adminiſtrator *de bonis non*, may ſue out a *ſcire facias* and have and take execution upon ſuch judgment.

Adminiſtrator *de bonis non* may have *ſcire facias* on former judgment.

SEC. 39. *And it is hereby further enacted*, That when two or more truſtees, or executors have been appointed by any will or wills, within this ſtate, with joint power to execute and perform certain truſts therein contained, and one or more of ſuch truſtees or executors have left this ſtate, without diſcharging the duty or duties, required of them, by the ſaid wills reſpectively, agreeably to the intention of the teſtators thereof, and ſhall neglect or refuſe to perform the ſame, in every ſuch caſe the truſtee, or truſtees, executor or executors, remaining in this ſtate, and the ſurvivor or ſurvivors of them, ſhall have and is and are inveſted with all the powers and authorities in the ſaid wills reſpectively contained, as if all the truſtees or executors named in ſuch wills reſpectively, were perſonally preſent.

If one joint executor or truſtee named in a will abſcond or die the remaining one or ſurvivor may execute.

SEC. 40. *And it is hereby further enacted*, That when adminiſtration on any eſtate ſhall

have been committed to two or more perſons, and any of ſuch adminiſtrators ſhall die, or ſhall remove or reſide out of the ſtate, or neglect or refuſe to act in ſuch adminiſtration, the judge of probate granting adminiſtration may empower the ſurviving adminiſtrator, or adminiſtrators, or the adminiſtrator or adminiſtrators remaining within this ſtate, to do and perform all acts pertaining to the ſaid adminiſtration, and all acts done in purſuance thereof, by ſuch ſurviving or remaining adminiſtrator or adminiſtrators ſhall be as good and valid in law, as though all the adminiſtrators firſt appointed had concurred therein.

One joint adminiſtrator dying or abſconding, the other to execute the duty.

SEC. 41. *And it is hereby further enacted*, That the diviſion of the eſtate ſhall be made by a committee, conſiſting of three judicious and diſintereſted perſons, or any two of them, to be appointed by ſaid court of probate, who ſhall be under oath for the faithful diſcharge of their truſt, and ſhall make a return of their doings in the premiſes, under their ſignatures, agreeable to the direction of ſaid court; unleſs all the perſons intereſted in any eſtate, being legally capable to act, ſhall mutually agree upon a diviſion among themſelves, and preſent the ſame in writing under their hands and ſeals, in which caſe ſuch agreement ſhall be accepted and allowed, for a ſettlement of ſuch eſtate, and accounted valid in law, being acknowledged by the parties, ſubſcribing before the ſaid court of probate, or before a juſtice of the peace; and ſuch diviſion in either caſe, ſhall be recorded in the records of ſaid court, and in the town clerk's office, or for want thereof in the county clerk's office, where ſuch lands divided, as aforeſaid, ſhall lie; and the dower of widows, in inteſtate eſtates, which are ſolvent, after the expiration of their

Diviſion of eſtate to be made by a committee of three.

term therein, ſhall be divided in like manner among the heirs.

Real eſtate may be decreed to the eldeſt ſon, &c. when it cannot be divided without damage.

SEC. 42. *Provided nevertheleſs, and it is hereby further enacted,* That if any real eſtate of an inteſtate, cannot be divided among all the children, or their legal repreſentatives without great prejudice to, or ſpoiling the whole, and being ſo repreſented, and made to appear to the judge of probate, he may decree the whole to the eldeſt ſon, if he will accept it, or to the eldeſt and any other of the ſons, who ſhall agree to accept it, or to any one or more of the ſons ſucceſſively, and upon their refuſal; or if there be no ſons, to the eldeſt daughter, or upon the eldeſt and any other of the daughters, who will accept of it, or any one or more of them ſucceſſively; and in caſe the inteſtate left no iſſue, upon any one or more of the collaterals in equal degree, preference being given to the male heirs, he, ſhe or they, paying to their co-heirs their proportionable ſhares of the true value thereof, upon an impartial appraiſment of the ſame, to be made by a committee to be appointed as aforeſaid, under oath for that purpoſe, by the judge of probate, or giving good ſecurity to pay the ſame at ſuch period as the judge ſhall limit, with intereſt till paid.

Judge may order dividend of any heir to be ſet off he giving bond, &c.

SEC. 43. *And it is hereby further enacted,* That the judge of probate, may, upon application of any heir to an inteſtate eſtate, order his or her dividend or proportion of the real eſtate to be diſtributed, and ſet off to ſuch heir, by a committee of three to be appointed as aforeſaid; he or ſhe giving bond, with ſufficient ſureties, to pay his or her rateable part of the debts, charges of adminiſtration, and maintenance of children under ſeven years of age, as aforeſaid.

When any tract of land is of greater value than either party's ſhare, the ſame may be aſſigned to one of the parties.

SEC. 44. *And it is hereby further enacted*, That when any tract of land, meſſuage and other tenement, ſhall be of greater value than either party's ſhare in the eſtate to be divided, and cannot be ſubdivided, or part thereof aſſigned, to one, and part to another, without injury or inconvenience, the ſame may be ſettled or aſſigned to one of the parties, ſuch party paying ſuch ſum, or ſums of money, to the party or parties, as by means of the aſſignment, ſhall have leſs than their ſhares of the real eſtate as the committee appointed to make partition ſhall award.

Real eſtate of inteſtate lying in common or undivided how to be ſevered.

SEC. 45. *And it is hereby further enacted*, That the reſpective judges of probate within this ſtate, be and hereby are directed and empowered, when they make out their warrants for the diviſion of the real eſtate, of any perſon dying inteſtate, to and among the heirs, or for aſſigning the widow's dower, where ſuch eſtate or any part thereof lies in common, or undivided, with the real eſtate of any other perſon, to direct the committee named in ſuch warrant, firſt to ſurvey and divide the inteſtate eſtate, from the eſtate with which it lies in common as aforeſaid, the ſaid committee to give timely notice to all perſons intereſted to be preſent, if they ſee cauſe; and ſuch diviſion ſo made and accepted by the judge, and recorded in the probate's office for the ſame diſtrict, ſhall be binding upon all parties intereſted; provided no ſuch partition ſhall be made as aforeſaid, when the proportion of any ſuch heir or widow, is diſputable or uncertain.

Judge to appoint guardians to minors, and repreſentatives for abſent

Provided, That any minors, perſons *non compos mentis*, or otherwiſe incapacitated to take care of their eſtate, are intereſted in either of the eſtates, guardians ſhall be appointed over them; and if any perſon intereſted is

out of the ſtate, the judge ſhall appoint ſome diſcreet perſon to repreſent and act for ſuch abſent party before ſuch diviſion is made. heirs before diviſion is made.

Provided alſo, That before the order for ſuch partition or ſeverance be iſſued, it be made to appear to the judge of probate that the ſeveral perſons intereſted in ſuch eſtate, or eſtates, if living within this ſtate, or the attorney of ſuch as are abſent, and have attornies within this ſtate, have been notified of ſuch partition, and have had opportunity to make exception to the ſame. Notice to be given before diviſion.

SEC. 46. *And it is hereby further enacted*; That when diviſion of any inteſtate eſtate, or partition of ſuch eſtate lying in common with the eſtate of any other perſon, ſhall be made by order of any judge of probate, according to the method before preſcribed, and any of the parties intereſted ſhall neglect or refuſe to pay their juſt proportion of the charge which may attend ſuch diviſion or partition, it ſhall and may be lawful for the judge to iſſue a warrant of diſtreſs, againſt any delinquent or delinquents intereſted, as aforeſaid, provided an account of ſuch charge be firſt laid before the judge, and the juſt proportion of each party intereſted, be by him ſettled and allowed, they having been notified to be preſent at ſuch ſettlement and allowance. Partition being made and either party refuſing to pay his proportion, the judge may iſſue his warrant of diſtreſs.

SEC. 47. *And it is hereby further enacted*, That every adminiſtrator ſhall be held to account with the judge of probate for the perſonal eſtate of the deceaſed, as the ſame ſhall be appraiſed, unleſs the judge ſhall order the ſame or any part thereof to be ſold at public auction, or private ſale, as he ſhall think will beſt ſerve the intereſt of all concerned, and the adminiſtrator ſhall account for the ſame accordingly. Adminiſtrators accountable for the perſonal eſtate at the appraiſement.

Adminiſtrators may veſt the perſonal eſtate of minors in lands.

SEC. 48. *And it is hereby further enacted*, That the adminiſtrator or adminiſtrators of any inteſtate eſtate, may, when there ſhall be any ſum or ſums of money, or any perſonal eſtate to be divided among the heirs of ſuch inteſtate, being minors, veſt the ſame or any part thereof in lands for the uſe of ſuch minors, and their heirs, in ſuch proportion as ſuch money or perſonal eſtate ſhould otherwiſe have been diſtributed, with the conſent of their reſpective guardians, at the diſcretion and under the direction of the judge of probate.

Heirs or guardians to be notified before licence is granted to ſell any eſtate.

SEC. 49. *And it is hereby further enacted*, That when application ſhall be made to any judge of probate, for licence to ſell any inteſtate's real eſtate, or any part thereof, for the payment of the demands againſt the ſame, before he grants ſuch licence, he ſhall cauſe the heirs to ſaid eſtate, or their guardians, to be notified thereof, and at what time and place they may be heard, concerning the ſame; and if they will give bonds with ſufficient ſureties, for the payment of ſaid demands, within ſuch time as the judge ſhall direct, licence ſhall not be granted, otherwiſe the judge ſhall grant licence to ſell ſo much as to him ſhall appear neceſſary, at public auction, or at private ſale, as ſhall be moſt for their benefit. —And the adminiſtrator or adminiſtrators, ſhall, upon taking the licence or previous to the ſale, take the following oath:

Adminiſtrator's oath.

"You A. B. do ſolemnly ſwear, that in diſpoſing of the eſtate of C. D. late deceaſed, or ſuch part thereof as you have licence to ſell, you will uſe your beſt judgment in fixing on the time and place of ſale, and will exert your utmoſt endeavors, that the ſame ſhall be ſold in ſuch manner, as will be of the greateſt advantage to the heirs of ſaid eſtate, and that without any ſiniſter or ſelfiſh views, whatever."

And if ſuch oath be taken before a juſtice of the peace, the adminiſtrator ſhall return a certificate thereof from the juſtice to the judge, before he allows the adminiſtrator's account, and the ſame ſhall be by him recorded.

Executors and adminiſtrators to keep houſes &c. in repair.

SEC. 50. *And it is hereby further enacted*, That it ſhall be the duty of every executor and adminiſtrator, to keep and maintain in tenantable repair, all houſes, buildings, and fences, appertaining to the eſtate of which he is executor, or adminiſtrator, out of the avails of the houſe and lands belonging to ſuch eſtate, and ſhall deliver the ſame over to the deviſees, or heirs, in ſuch repair, at the time diviſion or partition thereof ſhall be made,

Judge not to allow the accounts of adminiſtrators till the heirs are notified

SEC. 51. *And it is hereby further enacted*, That each judge of probate, before he makes a decree of allowance of the account of any adminiſtrator of an inteſtate eſtate, ſhall cauſe a major part of the heirs to ſuch eſtate, or their guardians, to be notified, that ſuch account is exhibited, and when and where they may be heard thereon.

Adminiſtrators to pay debts in ſpecie

SEC. 52. *And it is hereby further enacted*, That every adminiſtrator ſhall make payment of the debts of the inteſtate in ſpecie, if he hath the ſame as aſſets in his hands, and if he hath not the ſame, he ſhall expoſe the eſtate to the creditor, to take his ſatisfaction thereof at his election, the value of ſaid eſtate to be aſcertained by appraiſers, mutually choſen and ſworn. And where judgment and execution ſhall be awarded for any debt due from the inteſtate, the ſame proceeding ſhall be had thereon as the law doth, or ſhall hereafter direct for levying and ſatisfying execution in other caſes.

SEC. 53. *And it is hereby further enacted*, That when any executor or adminiſtrator

Executors and administrators neglecting to raise money to be deemed guilty of waste.

shall neglect or unreasonably delay to raise money out of the testator's, or intestate's estate, by collecting the debts due to such estate, or by selling the personal estate or the real estate (if need require, and he has power, or can obtain licence to sell the same) or shall neglect to pay what he has in his hands, and by such neglect, or delay shall subject the testator's or intestate's real or personal estate to be taken in execution the same shall be deemed waste, and unfaithful administration in such executor or administrator.

Personal estate insufficient to pay debts, &c. real estate to be sold.

SEC. 54. *And it is hereby further enacted*, That when the personal estate of any person deceased, shall not be sufficient to answer the just debts, which the deceased owed, and legacies given, the judge of probate is hereby empowered to licence and authorise the executors, or administrators, of such estate, to sell so much of the real estate of the deceased, as will satisfy the just debts, which the deceased owed at the time of his death and legacies bequeathed by his last will and testament. And every executor or administrator being so licenced and authorised, shall and may by virtue of such authority, make and execute in due form of law, good and valid conveyance, of the estate so sold, to the purchaser or purchasers their heirs and assigns forever.

Executors and administrators to give deeds.

In certain cases the whole to be sold when part would be sufficient. Persons interested to be notified.

SEC. 55. *And it is hereby further enacted*, That when it shall appear to the judge of probate on any application for leave to sell any such real estate, for either of the causes before mentioned, that a part of such real estate will be sufficient for said purposes, and that selling such part, and not the whole would be very injurious to the persons interested in such estate, the said judge notifying all concerned, to ap-

pear and ſhow cauſe to the contrary, and upon no ſufficient cauſe to the contrary being ſhown, ſhall and may give leave to ſell the whole of ſuch real eſtate—And the ſaid judge may, previous to granting ſuch leave, take bond of the executor or adminiſtrator to account for the proceeds of ſuch ſale, and after ſuch debts or legacies are paid, the reſidue ſhall be for the uſe of thoſe in whom the property of ſuch real eſtate ſo ſold belonged, and where ſuch perſons are minors, the ſaid judge may order the executor, adminiſtrator, or guardian of ſuch minors, to put ſuch money out at intereſt, for the benefit of ſuch minor, taking ſufficient ſecurity for the ſame, or veſt the ſame in lands, as is before provided in this act.

Judge to take bonds.

The money of minors to be veſted in lands or put to intereſt.

SEC. 56. *And it is hereby further enacted*, That all writs of attachment and execution ſhall run only againſt the goods or eſtate of the party deceaſed, in the hands of the executor or adminiſtrator, and not againſt his body, nor ſhall any executor or adminiſtrator be held to ſpecial bail on *meſne proceſs*, nor his own proper goods or eſtate be ſeized, or his perſon be arreſted, or taken in execution for the debts or legacies of the teſtator, or inteſtate, but upon a ſuggeſtion of waſte and return made by the ſheriff *nulla bona*, in which caſe a *ſcire facias* ſhall be iſſued out of the clerk's office, of the ſame court, or by the juſtice of the peace who iſſued ſuch execution, againſt ſuch executor or adminiſtrator, and *ſcire feci* being returned, if the executor or adminiſtrator ſhall make default of appearance, or appearing ſhall not ſhow ſufficient cauſe to the contrary, execution ſhall be adjudged and awarded againſt him of his own proper goods, and eſtate to the value of ſuch waſte, where it can be aſcertained, and oth-

Executors and adminiſtrators exempt from perſonal arreſt; and their own goods not liable, upon ſuggeſtion of waſte.

erwiſe for the whole ſum recovered, and for want of goods or eſtate, againſt his body.

Real eſtate of teſtator or inteſtate, may be taken on execution.

SEC. 57. *And it is hereby further enacted*, That the real eſtate of any teſtator, or inteſtate, is and ſhall be liable to be taken and levied upon by any execution iſſuing upon judgment recovered againſt executors and adminiſtrators in ſuch capacity, being the proper debts of the teſtator or inteſtate, and that the mode of levying and appraiſing, and recording, ſhall be the ſame as by law is provided, reſpecting other real eſtates levied upon and taken in execution, and may be redeemed by the executor, adminiſtrator, or heir or other creditor in like time and manner.

Eſtates both real and perſonal attachedupon *meſne proceſs* holden though the party die pending the ſuit.

SEC. 58. *And it is hereby further enacted*, That when any goods or eſtate are attached upon any writ or proceſs, which ſhall be pending in any court in this ſtate, the ſame ſhall not be releaſed or diſcharged, by means of the death of either party, but held good to reſpond the judgment to be given on ſuch ſuit or proceſs, in the ſame manner as by law they would have been, if ſuch deceaſed party had been living; any law, uſage or cuſtom to the contrary notwithſtanding.

Same in caſes of inſolvency.

Provided always, That where the eſtate of ſuch deceaſed defendant as aforeſaid, ſhall by the executor or executors, or adminiſtrator or adminiſtrators of the ſame, be repreſented as inſolvent, and a commiſſion of inſolvency ſhall thereupon iſſue, in all ſuch caſes, attachments made as aforeſaid, ſhall have no force, or efficacy, after the death of the original defendant, or defendants, in the action.

Executors and adminiſtrators may have continuance.

SEC. 59. *And it is hereby further enacted*, That all executors and adminiſtrators of any eſtate, ſhall upon motion to the court in which any ſuit which ſhall have been brought againſt their teſtator, or inteſtate, and ſhall be

pending, be entitled to a continuance of the ſame, until the next term of ſaid court.

Where eſtate of inteſtate lies in different diſtricts how adminiſtration to be granted.

SEC. 60. *And it is hereby further enacted*, That when any perſon ſhall die inteſtate, having eſtate in ſeveral diſtricts in this ſtate, adminiſtration thereof ſhall be granted, of the whole, by the judge of probate in the diſtrict where the deceaſed was laſt an inhabitant— And in caſe of a perſon dying inteſtate who was not an inhabitant of this ſtate, but poſſeſſed real or perſonal eſtate within the ſame, adminiſtration thereof ſhall be granted by the judge of probate in the diſtrict where ſome part thereof ſhall happen to be.

Huſband of deceaſed wife to hold by curteſy during his life time, in certain caſes.

SEC. 61. *And it is hereby further enacted*, That when any man and his wife, ſhall be ſeized of any real eſtate in her right, in fee ſimple, and iſſue ſhall be born alive of the body of ſuch wife, that may or might inherit the ſame, and the wife die, ſuch iſſue having died within age, and without children, who might legally inherit, the huſband ſhall have and hold ſuch eſtate during his life, as tenant by curteſy; any thing in this act to the contrary notwithſtanding.

Perſon embezzling chargeable on execution *de ſon tort* for double the amount.

SEC. 62. *And it is hereby further enacted*, That if any perſon or perſons, before taking adminiſtration of any inteſtate eſtate, ſhall embezzle, or alienate any of the goods or chattels belonging to ſuch eſtate, every ſuch perſon ſhall ſtand chargeable and be liable to the actions of creditors or other perſons grieved, as being executors in his or her own wrong, to double the amount or value of the article ſo alienated or embezzled.

Perſons ſuſpected of embezzlement

SEC. 63. *And it is hereby further enacted*, That if any executor, or adminiſtrator, heir, creditor, legatee, or other perſon, having lawful right or claim to the eſtate of any perſon deceaſed, ſhall complain to the judge, that a-

may be examined on oath.

ny perſon is ſuſpected to have concealed, embezzled, or conveyed away, any of the money, goods, or chattels of the teſtate, or inteſtate, or that he or ſhe has in his or her poſſeſſion, or within his or her knowledge, any deeds, conveyances, bonds, contracts, covenants, agreements, or other writings, which if produced, would contain evidence of, or tend to diſcloſe the right, title, intereſt, or claim of ſuch teſtate, or inteſtate, of, in or into any real eſtate, ſuch judge of probate is hereby empowered, to call before him, and examine on oath, ſuch ſuſpected perſon, reſpecting the matters contained in ſuch complaint, and if the ſuſpected perſon againſt whom ſuch complaint ſhall be made as aforeſaid, ſhall refuſe to appear before the ſaid judge, or appearing, ſhall refuſe to be examined, or anſwer ſuch interrogatories on oath, as ſhall be put to him by the judge, reſpecting ſuch money, goods, chattels or other thing relative to ſaid eſtate, it ſhall be lawful for, and the ſaid judge is hereby empowered, to commit the perſon ſo refuſing, to the common gaol of the county, there to remain until he or ſhe ſhall conſent to be examined, and anſwer interrogatories, as aforeſaid, or be releaſed by the complainant, or by order of the ſupreme court of judicature—And when any judge ſhall be informed that any perſon has the will of a teſtator in his cuſtody, he or ſhe ſhall be proceeded againſt as before directed in this ſection.

Perſons ſuſpected of concealing will how proceeded againſt.

Judge of probate may call perſons entruſted by executors or adminiſtrators to account

SEC. 64. *And it is hereby further enacted*, That every judge of probate, be and hereby is empowered, to convene before him by citation, any perſon who has been, or may hereafter be entruſted by any executor, or adminiſtrator, with any part of the eſtate of the teſtator or inteſtate, (and to be aſſiſting to ſuch executor or adminiſtrator in the execution of their

truſt) and to require ſuch perſon to render a full account upon oath of any money, goods or chattels, and of any bonds, accounts or other papers belonging to the eſtate of the teſtator, or inteſtate, which he ſhall have taken into his hands, or cuſtody, and of his proceedings for, and in behalf of ſuch executor, or adminiſtrator, in his capacity as ſuch, and if ſuch perſon ſhall refuſe to appear, or to render account as aforelaid, ſuch judge may proceed againſt him or her in the ſame way and manner, as is before directed for perſons who refuſe to anſwer interrogatories upon oath.

Executors and adminiſtrators maymaintain actions of treſpaſs.

SEC. 65. *And it is hereby further enacted*, That executors and adminiſtrators ſhall, and may have an action for a treſpaſs done to their teſtator, or inteſtate, as of the goods and chattels of the ſame teſtator, or inteſtate, carried away in his life time, againſt the treſpaſſer, and recover their damage in like manner as the perſon whoſe executors or adminiſtrators they be, ſhould have had, if he or ſhe were in life.

And may be ſued for treſpaſs done by teſtator, or inteſtate.

And where any teſtator, or inteſtate ſhall, in his life time, have taken or carried away or converted to his or her uſe, the goods or chattels of any perſon or perſons, ſuch perſon or perſons, his or her executors, or adminiſtrators, ſhall have and maintain the ſame action, againſt the executors or adminiſtrators of ſuch teſtator, or inteſtate, and ſhall have the like remedy, and proceſs for the damages recovered in ſuch action, as are now had and allowed in other actions againſt executors or adminiſtrators.

May maintain actions of treſpaſs and ejectment

SEC. 66. *And it is hereby further enacted*, That any executors and adminiſtrators may commence and maintain an action of treſpaſs *quare clauſum fregit*, or ejectment, or any other proper action, to recover the ſeiſin or poſſeſſion of any houſes, lands, tenements

or heridetamenrs, on the right of his teſtators, or inteſtate, or proſecute any ſuch actions already commenced by his teſtator, or inteſtate, to the uſe of the deviſee, heir, or creditor, as the caſe may be.

All acts of adminiſtrators, before notice of will, to be valid.

SEC. 67. *And it is hereby further enacted*, That all lawful acts done, or to be done by any adminiſtrator before notice of a will, or adminiſtrator with the will annexed, before notice of a later will, and all ſales of goods and chattels made by ſuch adminiſtrator, *bona fide*, before ſuch notice, ſhall ſtand and remain good, and ſhall not be impeached or altered, by any executor or executors, on any will appearing afterwards.

Wills proved without the ſtate, copies filed, to have the validity of the original.

SEC. 68. *And it is hereby further enacted*, That the copy of any will which has been duly proved and allowed in any probate court, in any of the United States, or in any foreign ſtate or kingdom, may be filed and recorded, in any probate court in this ſtate, purſuant to the laws thereof, and the filing and recording thereof, ſhall be of the ſame force and effect, as the filing and recording of an original will, proved and allowed in the ſame court of probate, and the ſaid judge may thereupon proceed to take bond of the executor, or executors, or grant adminiſtration of the ſaid teſtator's eſtate, lying in this ſtate, with the will annexed, and ſettle the ſaid eſtate in the ſame way and manner, as by law he may or can, upon the eſtates of teſtators, whoſe wills have been duly proved before him.

Perſons intereſted in wills proved without the ſtate, deſiring

SEC. 69. *And it is hereby further enacted*, That when the executor, or any other perſon intereſted in a will, that has been proved and allowed in court of probate in any of the United States, or in a court of probate in any other ſtate or kingdom, purſuant to the laws of ſuch ſtate or kingdom, ſhall produce a copy

of ſuch will, with a copy of the probate thereof, duly authenticated, unto any judge of probate in any diſtrict in this ſtate, where the teſtator had eſtate, real or perſonal, whereon the ſaid will may operate, and ſhall in writing deſire the ſame may be filed and recorded in the probate office, in the ſame diſtrict purſuant to this ſtatute, the ſaid judge ſhall aſſign a time and place for taking the ſame into conſideration, and ſhall cauſe notice thereof to be made in ſome public newſpaper, in this ſtate, three weeks ſucceſſively, thirty days at leaſt before the time aſſigned, to the end, that any perſon may appear and ſhow cauſe againſt the filing and recording of the ſame; and if at the time aſſigned, no objection is made, or none in the judgment of the ſaid judge ſufficient to prevent it, the ſaid judge may cauſe the ſame copy to be filed in the regiſtry of the court of probate, and cauſe the ſame to be recorded in ſaid office; ſaving always an appeal, to any perſon conceiving himſelf injured thereby, to the ſupreme court of judicature as in other probate matters.

the ſame may be filed, how to proceed.

SEC. 70. *And it is hereby further enacted*, That when an original will ſhall be offered for probate, before any court of probate in this ſtate, and any witneſs atteſting the ſame ſhall reſide without this ſtate, or more than thirty miles diſtant, or by reaſon of age, or bodily infirmity, ſhall be unable to appear and give teſtimony before the court, in every ſuch caſe, the judge of probate may iſſue a *dedimus poteſtatem*, to any perſon or perſons, authoriſing the taking and certifying of ſuch atteſtation, and if the perſon or perſons to whom ſuch power ſhall be directed, ſhall certify that the witneſs perſonally appeared before him, and made oath that the teſtator ſigned and publiſh-

Witneſſes living without the ſtate, their depoſitions may be taken in certain caſes.

ed the writing, purporting to be his will, as his laſt will and teſtament, or that ſome other perſon ſigned it by his direction, that he was of ſound diſpoſing mind and memory and that he ſubſcribed his name thereto in the preſence of the teſtator, and at his requeſt, ſuch oath ſhall have the ſame operation, and the will be recorded in the ſame manner, as if ſuch oath had been made in the court from which ſuch power iſſued.

Certificates of clerk tantamount to full copies for certain purpoſes.

SEC. 71. *And it is hereby further enacted*, That certificates of probate or adminiſtration, atteſted by the regiſter or clerk, ſhall enable the executor or adminiſtrator to act, and may be produced, or given in evidence, in any court in this ſtate, and be as effectual as any probate or letters of adminiſtration made out in due form of law.

If inventory returned exceed 1000 dollars, judge to cite thoſe concerned to appear and ſhow cauſe againſt the ſufficiency of the bonds.

SEC. 72 *And it is hereby further enacted*, That on the return of the inventory and appraiſal as before directed in this act, if the amount of ſuch inventory and appraiſal ſhall exceed the ſum of one thouſand dollars, it ſhall be the duty of the executor or executors, adminiſtrator or adminiſtrators, to procure a citation from the judge of probate, and cauſe the ſame to be ſeaſonably ſerved on the deviſees, legatees, heirs, creditors, or others intereſted in any eſtate, or on ſuch of them, as he ſhall judge reaſonable, to appear before ſaid judge of probate, at ſuch time as the ſaid judge ſhall therein direct, (if he, ſhe, or they ſee cauſe), which ſhall not be leſs than ſix days from the iſſuing of ſuch citation, to ſhow cauſe, if any he, ſhe or they have, againſt the ſufficiency of the bonds, which ſhall have been originally taken by ſaid judge, and if upon a hearing of the parties, the ſaid judge ſhall order and decree, that the bonds ſo taken are inſufficient, ſaid judge ſhall further order and decree, that ſuch executor

or executors, adminiſtrator or adminiſtrators ſhall procure ſupplemental ſecurity, to the ſatisfaction of ſuch judge of probate, within a certain time by ſaid judge to be directed; and if ſuch executor or executors, adminiſtrator or adminiſtrators, neglect or refuſe to procure ſuch ſupplemental ſecurity, within the time as aforeſaid, ſuch executorſhip or adminiſtratorſhip ſhall ceaſe, and the ſaid judge ſhall grant adminiſtration, with the will annexed, or new letters of adminiſtration, as the caſe may be.

Eſcheats proceedings therein regulated

SEC. 73. *And it is hereby further enacted*, That when and ſo often as the judge of probate of any diſtrict in this ſtate, ſhall be informed, or have reaſon to believe, that any inteſtate has died ſeized or poſſeſſed of any eſtate, within this ſtate, (the right of granting adminiſtration on which belongs to ſuch judge,) having no heir by law capable of inheriting the ſame, he ſhall cauſe a citation to be iſſued and publiſhed in ſuch manner and for ſuch time as he ſhall judge moſt likely to notify thoſe who may be intereſted, which citation ſhall be, as near as may be, in the form following, to wit:

Citation form of.

"STATE OF VERMONT.

"*Probate Diſtrict of* ſs.

"Whereas A. B. late of has died ſeized of certain goods, chattels, and other eſtate, within this ſtate, the right of granting adminiſtration, on which by law, belongs to the judge of probate for the diſtrict of aforeſaid. And whereas it hath not been made to appear to the ſaid judge, that the ſaid A. B. made any laſt will and teſtament, or that he hath left any heir or heirs, who is, or are by law capable of inheriting ſuch eſtate. This is therefore to require all and every perſon having claims to the inheritance of the ſaid A. B.'s eſtate lying in this ſtate, or

the widow of the ſaid A. B. to appear before the judge of probate for the diſtrict aforeſaid, at in ſaid diſtrict, on the day of then and there to ſhow cauſe if any he, ſhe or they have, wherefore the ſaid judge ſhould not order, adjudge, and deem the eſtate aforeſaid to be forfeited to this ſtate, and thereupon proceed to the diſpoſition of the ſame, as the law in ſuch caſe directs.

"Dated at this day of A. D.

"C. D. Regiſter."

And if no legatee, deviſee, heir or widow appear, or if any perſon or perſons claiming as ſuch, do appear, and the judge decree againſt the right of ſuch claimant, or claimants, and no appeal from ſuch decree ſhall be demanded, and when ſuch appeal ſhall be demanded and the ſupreme court of judicature ſhall not on ſuch appeal reverſe ſuch decree, it ſhall in ſuch caſe, be the duty of ſuch judge, to order, adjudge and decree all the eſtate, real and perſonal, belonging to ſuch inteſtate, lying and being in this ſtate (all juſt debts and charges being firſt deducted) to the inhabitants of the town to which ſuch inteſtate belonged, if an inhabitant of this ſtate; and if not an inhabitant of this ſtate, the ſaid judge ſhall order, adjudge and decree the real eſtate of ſuch inteſtate to the inhabitants of the town or towns reſpectively where ſuch lands are ſituated, and the perſonal eſtate ſhall be equally divided between the towns where ſuch real eſtate lies; and where ſuch inteſtate ſhall leave no real eſtate, his perſonal eſtate ſhall belong to the town where ſuch inteſtate died, and be paid to the treaſurers thereof, by the adminiſtrator, purſuant to an order of ſaid judge, un-

der the reſtriction, and ſubject to the conditions and proviſions herein after expreſſed.

Provided nevertheleſs, That if ſuch inteſtate dying without heirs as aforeſaid, have a widow, the ſaid judge ſhall order, adjudge and decree to ſuch widow the whole of ſuch real and perſonal eſtate forever, on her giving bond, with ſufficient ſurety or ſureties, to the ſatisfaction of ſuch judge, conditioned, that ſhe, her heirs, executors or adminiſtrators, ſhall and will, well and truly account to, and pay over any part, or parts of ſuch eſtate, or the value thereof, that any heir, or heirs, legatee or deviſee to ſuch eſtate, ſhall make to appear, that he, ſhe or they are entitled to receive, when ſuch claim ſhall be made within ſeventeen years after the decree of ſuch judge in favor of ſuch widow, and not after.

Where there are no heirs, the eſtate to be decreed to the widow of the inteſtate, if any, forever.

Provided alſo, That when, for want of heirs, or widow, as aforeſaid, ſuch judge ſhall order, adjudge and decree ſuch eſtate to ſuch town or towns as aforeſaid, the ſame ſhall be and remain as a permanent fund, to, and for the uſe and benefit of the inhabitants of ſuch town, for the purpoſes of education forever. And the ſelectmen for the time being, or ſuch other perſon or perſons as ſuch town ſhall appoint for that purpoſe, ſhall be truſtees to take care of ſuch eſtate, and may, from time to time, leaſe, rent or hire out ſuch real eſtate, and put on loan ſuch perſonal eſtate, or the monies ariſing from the ſale thereof; and the net income of ſuch real and perſonal eſtate may cauſe to be expended for the purpoſe of education in ſuch town in ſuch manner as ſuch town ſhall direct.

SEC. 74. *Provided alſo, and it is hereby further enacted*, That the inhabitants of ſuch town, or towns ſhall be accountable to any legatee, deviſee, heir or widow, as the caſe may be, for ſuch eſtate, who ſhall ſubſtantiate

Towns accountable to deviſees legatees or wid.

ows if claimed in seven- teen years.

his, her or their claim to the ſame, ſuch claim being made within ſeventeen years, from the time of the decree of ſuch judge, in favor of ſuch town or towns as aforeſaid, and not after —In each of which caſes the ſaid widow, town or towns, ſhall be allowed ſuch reaſonable ſums, as the judge may think juſt, to the amount of a part, the whole, or a greater ſum than the iſſues, rents or profits of ſuch eſtate, for the expence and trouble ſhe or they may have been at in taking charge of ſuch eſtate. And all claims not made to ſuch eſtate within ſeventeen years as aforeſaid, are hereby declared to be forever barred. And all widows and towns circumſtanced as aforeſaid, ſhall have all and every privilege as to right of action and recovery, as an heir may by law have to recover his or her eſtate, in any action in law or chancery.

SEC. 75. *And it is hereby further enacted*, That in all caſes in which any perſon ſhall have died inteſtate and without legal heirs as aforeſaid, before the paſſing of this act, and no ſtatute has been made for the diſpoſition of the eſtate of ſuch inteſtate, which inteſtate at the time of his death, was ſeized and poſſeſſed of any real or perſonal eſtate, the ſame proceedings may be had and the eſtate ſhall enure in the ſame manner as is herein before provided.

Surety of executors or adminiſtrators in danger of ſuffering, may petition for relief.

SEC. 76. *And it is hereby further enacted*, That when any ſurety or ſureties for executors or adminiſtrators, ſhall conceive him, her or themſelves in danger of ſuffering thereby, he may petition the judge of probate, who took bonds for the execution of the will or adminiſtration of the eſtate, for relief, and the ſaid judge of probate may make ſuch order or decree thereupon, to relieve and ſecure the petitioner by counter ſecurity or otherwiſe,

as the ſaid judge ſhall think juſt and equitable.

SEC. 77. *And it is hereby further enacted*, That if any perſon or perſons ſhall neglect or refuſe to perform any ſentence, order or decree of the judge of the court of probate of any diſtrict in this ſtate, it ſhall and may be lawful to, and for the judge of ſaid court of probate, to cauſe ſuch perſon or perſons, by proceſs directed to any ſheriff of any county of this ſtate, to be taken and impriſoned, until he, ſhe or they ſhall perform the ſame ſentence, order or decree—And every ſheriff is hereby directed to cauſe all ſuch proceſs to him at any time, directed, to be duly executed, and to confine the perſon or perſons againſt whom ſuch proceſs ſhall be iſſued, as in execution, until he, ſhe or they ſhall be delivered by due courſe of law; and if any ſheriff ſhall neglect his duty therein he ſhall be anſwerable to the party grieved, in ſuch manner as he would be anſwerable upon proceſs of the like nature, iſſuing out of the ſupreme court of judicature.

Judge of probate empowered to enforce his decree, &c.

Sheriffs to execute proceſs iſſued from court of probate.

SEC. 78. *And it is hereby further enacted*, That any perſon or perſons aggrieved at or diſſatisfied with any decree, ſentence or order, of any judge of probate, by virtue of this act made, ſhall have right to appeal therefrom, to the next ſeſſion of the ſupreme court of judicature to be holden in the county in which the judge ſhall reſide, whether the ſame be ſtated or adjourned, provided ſuch appeal be claimed within ſixty days next after the making ſuch decree, ſentence, order or denial, and giving bond in a reaſonable ſum with ſufficient ſureties, to proſecute ſaid appeal to effect, and to anſwer and pay all damages and coſts, which may happen in conſequence of the delay occaſioned by ſuch appeal. And if any ſuch decree, ſentence, order or denial, ſhall upon ſuch appeal be reverſed, or altered by the ſupreme court

Appeal from court of probate to ſupreme court allowed if made in ſixty days.

bonds to be given.

of judicature, coſts ſhall be taxed for the appellant.

Appellant to give notice under the direction of the judge.

SEC. 79. *And it is hereby further enacted*, That in caſe of an appeal being taken, the perſon appealing, ſhall immediately give notice in one of the newſpapers printed in this ſtate, under the direction of the judge of probate, of the appeals having been claimed and allowed, and of the term at which ſaid appeal is to be entered for trial.

Judges of probate to have fixed days for publiſhing decree.

SEC. 80. *And it is hereby further enacted*, That the ſeveral judges of probate within their reſpective diſtricts, ſhall have certain fixed days, for making and publiſhing their ſentences, orders, and decrees, and ſuch days ſhall be made known by publication thereof in ſome public newſpaper, circulated within their reſpective diſtricts; and no judge of probate ſhall be allowed or admitted to have a voice in judging and determining on appeal, from his deciſion, orders or decrees, nor ſhall be permitted to plead, or act as an attorney in any civil action, which may depend on, or have relation to any ſentence, order or decree, made or paſſed by him, in his office aforeſaid.

Not to judge in caſes of appeals nor be of council.

SEC. 81. *And it is hereby further enacted*, That if no time in and by any laſt will and teſtament, is or ſhall be limited, for the payment of any legacy or legacies, thereby given or bequeathed, then and in every ſuch caſe the executor or executors, ſhall have the ſpace of one year to diſcharge the ſame—And the ſame time is hereby given to any adminiſtrator or adminiſtrators with the will annexed.

Executors allowed one year to pay legacies unleſs.

And no action ſhall in any caſe be commenced againſt any executor or executors, or adminiſtrator or adminiſtrators, until the expiration of one year from the time of proving the will, or taking out letters of adminiſtration.

SEC. 82. *And it is hereby further enacted,* That when the eſtate of any perſon deceaſed, ſhall be inſolvent, and inſufficient to pay all the juſt debts which the deceaſed owed, the eſtate ſhall be diſtributed among the creditors in proportion to the ſums to them reſpectively due, ſaving that all rates and taxes, and debts due to the ſtate, and debts due for the laſt ſickneſs, and neceſſary funeral expences, ſhall be firſt paid; and the order of ſuch payment ſhall be firſt, the expences of the funeral, then the charges of the laſt ſickneſs, then the rates and taxes, and laſtly the debts due to the ſtate. And if the executor or adminiſtrator of any eſtate on which he ſhall be appointed to adminiſter, ſhall ſuppoſe the ſame to be inſolvent, it ſhall be his duty to repreſent its condition, and circumſtances to the judge of proba e, before the payment of any debts due from ſuch eſtate be made, except funeral expences, charges of the laſt ſickneſs, rates and taxes, and debts due to the ſtate; and on ſuch repreſentation, the judge of probate ſhall appoint two or more perſons commiſſioners, to receive, examine, and adjuſt all claims of the creditors to any ſuch eſtate, and the commiſſioners, ſo appointed, ſhall cauſe the times and places of their meeting for the purpoſes aforeſaid, to be made known, by poſting a notification thereof, in ſome public place in the town, or diſtrict, in which ſuch perſon deceaſed laſt reſided, and in one or more of the newſpapers, printed in this ſtate, and in ſuch other place and papers, as the judge of probate ſhall direct; and the manner of notifying ſhall always be expreſſed in the commiſſion of inſolvency, that ſhall iſſue to the commiſſioners; and the ſaid judge ſhall allow, ſix, nine, twelve or eighteen months (as the

Eſtates inſolvent to be diſtributed.

To be repreſented inſolvent.

Commiſſioners appointed to examine claims.

circumſtances of the eſtate may require) for the creditors to exhibit and ſubſtantiate their claims, and demands; and may further prolong the time, if he ſhall deem it neceſſary; and at the expiration of the time allowed for preſenting claims, the ſaid commiſſioners ſhall make report to the judge, and return on oath, as well a liſt of all the claims by them allowed, as a liſt of ſuch as have been preſented and diſallowed, and in ſuch report, ſhall particularly ſtate how they have notified the creditors, and ſhall alſo produce to the judge ſatisfactory evidence, of their having ſo notified, and the judge ſhall allow them out of the eſtate, a reaſonable compenſation for their ſervices.

Demands not exhibited in time to be debarred unleſs.

SEC. 83. *And it is hereby further enacted*, That all demands againſt any eſtate repreſented inſolvent as aforeſaid, not exhibited to the commiſſioners within the time limited by the judge for that purpoſe, ſhall be forever barred unleſs the creditor or creditors can find ſome eſtate of the deceaſed, not inventoried or accounted for, by the executor or adminiſtrator, in which caſe, after allowing and deducting ſuch coſts and charges, as to the judge may appear reaſonable, if the eſtate ſo found be ſufficient, the ſaid creditor or creditors ſhall firſt receive a dividend, ſo as to make, him her or them equal to the other creditors of ſaid eſtate, if there be ſo much remaining after deducting coſts as aforeſaid, and the overplus (if any there be) ſhall be divided in due proportion among all the ſeveral creditors to ſaid eſtate.

Demands diſallowed by commiſſioners right of

SEC. 84. *And it is hereby further enacted*, That if any creditor ſhall exhibited his claim or demand againſt any ſuch eſtate ſo repreſented as aforeſaid, to the commiſſioners as before mentioned, and the ſaid commiſſioners ſhall diſal-

low it wholly, or in part, ſuch creditor conceiving himſelf aggreived by the judgment and determination of the commiſſioners, may at the time ſuch commiſſioners ſhall make report, and return to the judge as beforementioned, or within twenty days afterwards, if ſuch demand ſo diſallowed in whole amounted to twenty dollars, or if the ſum allowed by the commiſſioners of any demand exhibited is twenty dollars leſs than the ſum demanded, appeal from the judgment and determination of the commiſſioners to the ſupreme court, next to be holden in the ſame county, whether the ſame be an adjourned or ſtated ſeſſion of ſaid court, ſignifying to the judge in writing ſuch his deſire, and filing in the probate office a declaration of his demand againſt ſuch eſtate, drawn up with the ſame legal certainty as is required in proſecuting demands in the courts of law, and the judge ſhall cauſe the executor or adminiſtrator to be ſerved with a copy of ſuch declaration, and of the appeal made by ſuch creditor, at leaſt twelve days before the ſetting of ſuch court, if there ſhall be ſo many days between the time of filing ſuch declaration, and the time of the ſeſſion of ſaid court, and if there ſhall not be ſo long a time, then the copy aforeſaid ſhall be ſerved as ſoon as may be, and the creditor may, at the court to which the appeal is made on the firſt day of the ſetting of ſaid court enter his action as plaintiff againſt the executor or adminiſtrator, and ſhall produce an atteſted copy of ſuch his declaration, and certificate from the judge of probate, that notice hath iſſued to the executor or adminiſtrator thereon, and upon ſuch declaration, ſuch pleadings, may be had, and the matter iſſued in the ſame way and manner, as though ſuch action had been commenced in the ordinary

appeal to ſupreme court.

Declaration to be filed.

Pleadings. &c.

and uſual way, and had been entered in ſaid ſupreme court, by way of appeal from the county court, and the ſaid ſupreme court, ſhall certify to the judge of probate, the judgment they ſhall give thereon; and if ſomething but not more than the commiſſioners ſhall have allowed, ſhall in ſuch judgment be given to the creditor, the court ſhall not tax coſts for the creditor, but may tax coſts for the executor or adminiſtrator if all circumſtances conſidered, they think it proper; and if the creditor ſhall fail to enter his action in manner and ſeaſon as before directed, his demands ſhall be forever barred, and in caſe any thing was allowed by the commiſſioners, the ſame ſhall be ſtruck off the liſt and the court may on the complaint of the executor or adminiſtrator, tax and allow him coſts and iſſue execution, therefor in due form of law; or in caſe judgment be for the executor or adminiſtrator on trial, or otherwiſe, after the entry of ſuch action he ſhall be allowed his coſts and ſhall have execution thereof, as in other caſes, and any of the creditors, ſhall and may if the ſaid ſupreme court think proper, be admitted to defend againſt ſuch action, in the name of the executor or adminiſtrator, if the executor or adminiſtrator declines, or is himſelf the creditor—And the judgment of the ſaid ſupreme court ſhall be conſidered as the juſt claim of ſuch creditor—And if any executor or adminiſtrator ſhall be of opinion that the commiſſioners have allowed a demand againſt the eſtate which ought not to be allowed, or have allowed a larger ſum than was juſtly due, ſuch executor or adminiſtrator, ſhall, at the time of the report, made to the judge, ſignify his objection to the creditor (if preſent) or to his agent (if preſent) in writing, which writing ſhall be filed in the probate office, and if neither

Appellant failing to enter his appeal his demands ſhall be barred, he be liable to coſts.

Judgment of the ſupreme court to be conſid. ered as the juſt claim.

the creditor or his agent be preſent, or if the creditor ſhall fail to proſecute his demand againſt ſuch eſtate, ſo repreſented inſolvent as aforeſaid, at the next ſupreme court in the ſame county, in the manner before directed, in caſe of a creditor's appealing from the judgment of the commiſſioners, then the claims allowed by the commiſſioners and objected to by the executor or adminiſtrator aforeſaid, ſhall be ſtruck off the liſt of claims; but if the ſame or as much as was allowed by the commiſſioners be allowed by the judgment of the ſupreme court, then ſuch creditor ſhall have his full coſts taxed, and there ſhall be in neither caſe a review allowed.

Creditors and executors or adminiſtrators may refer.

SEC. 85. *And it is hereby further enacted*, That the creditor and executor or adminiſtrator may agree before the judge of probate to ſubmit any diſpute between them to referees, in which caſe, their award being made and returned to the ſaid judge, and by him accepted ſhall be final between the parties.

No action againſt executors or adminiſtrators to be ſuſtained unleſs.

SEC. 86. *And it is hereby further enacted*, That no action againſt any executor or adminiſtrator of any inſolvent eſtate, ſhall be ſuſtained, except for debts due to the ſtate, debts due for rates or taxes, laſt ſickneſs and funeral charges, unleſs the executor or adminiſtrator, having objection to the claim on which the action is brought, conſents to have the ſame ſettled by courſe of law, in which caſe the judgment of the court ſhall ſettle and adjuſt ſuch claim, and the ſame ſhall be final.

Provided if executors or adminiſtrators neglect to pay by the time

Provided nevertheleſs, That in every caſe when the executor or executors, adminiſtrator or adminiſtrators, of any ſuch eſtate, repreſented inſolvent as aforeſaid, ſhall neglect or refuſe to pay the debts due to the creditors of ſuch eſtate, according to the proportion to which they ſeverally ſhall be entitled, and

appointed by the judge an action may be brought, &c.

within the time which ſhall be allowed and appointed by the judge of probate for that purpoſe, it ſhall and may be lawful for any ſuch creditor, to bring his action againſt the executor or executors, or adminiſtrator or adminiſtrators, ſo neglecting or refuſing, in any court having cognizance thereof, and ſhall recover his proportion with intereſt from the time which ſhall be appointed as aforeſaid, together with coſts of ſuit, and ſuch judgment ſhall be rendered againſt ſuch executor or executors, adminiſtrator or adminiſtrators, in his or their own proper perſon or perſons, and execution may iſſue againſt his, her or their goods and chattels or eſtate, and for want thereof againſt his, her or their body or bodies.

Time allowed executors and adminiſtrators to make ſale after report of commiſſioners.

SEC. 87. *And it is hereby further enacted*, That when the report and return of the commiſſioners ſhall be made and allowed as before provided in this act, and the eſtate ſhall be found inſolvent, the judge ſhall allow to the executor or executors, or adminiſtrator or adminiſtrators of ſuch eſtate, a time not exceeding eighteen months for the ſale of the whole or ſuch part of the goods, chattels or lands of ſuch inſolvent eſtate, as ſhall be neceſſary, for the diſcharging of the debts, due from ſuch inſolvent eſtate, which time ſhall be notified in the news papers, or otherwiſe as the judge ſhall direct, and if any creditor ſhall neglect to call on ſuch executor or executors, or adminiſtrator or adminiſtrators for his ſhare allowed as aforeſaid, within ſuch time, or within one year after the expiration of ſuch time, he or ſhe ſhall forever be barred.

Creditor neglecting to call for his demand to be barred.

Widows dower to be ſet off, or may agree

SEC. 88. *And it is hereby further enacted*, That if there be any widow to an inſolvent eſtate, her dower in the houſes and lands, ſhall be ſet off according to law, unleſs the ſaid widow and the creditors repreſenting

two thirds in value of the debts, ſhall mutually agree upon a portion of the real eſtate to be aſſigned her, during her natural life, or of the perſonal eſtate to be ſet off to her forever, in lieu of her dower, with the approbation of the judge of probate, in which caſe, the ſame ſhall be valid and binding. And in caſe no ſuch agreement ſhall be made with the ſaid widow and creditors, then the whole of the real eſtate with the reverſion of the widow's dower (if the judge ſhall think it moſt for the benefit of the creditors, that the reverſion of her dower ſhould be ſold with the reſt of the real eſtate) ſhall be ſold according to law, unleſs any creditor will take it at the appriſal: and the allowance made to the commiſſioners as aforeſaid, all the coſts and charges of adminiſtering, rates, and taxes due from ſuch eſtate, debts due to this ſtate, and debts due for the laſt ſickneſs and funeral charges as before provided, and ſuch reaſonable part of the perſonal eſtate as the judge may think proper to allow to the widow for her ſupport being deducted; the judge ſhall order and decree the reſidue of ſuch eſtate to be divided among the creditors, in proportion to their demands, allowed and adjuſted as aforeſaid, or otherwiſe by judgment of law. And in ſuch decree the judge ſhall declare and ſtate, that the creditors have been notified according to his order, and ſuch decree ſhall ever after be conſidered as ſufficient evidence of ſuch fact, in all matters or cauſes in which the ſame may be drawn in queſtion. And if the reverſion of the widow's dower ſhall not be ſold with the other real eſtate, it ſhall at the expiration of her term, be ſold and divided as before mentioned. And the like ſhall be done with any eſtate of the deceaſed, which may come to the hands

with the creditors.

Inſolvent eſtates how divided.

of the executors or adminiſtrators, at any time after the firſt diſtribution.

Action brought againſt executors or adminiſtrators of inſolvent eſtates to be diſcontinued.

SEC. 89. *And it is hereby further enacted*, That all actions brought againſt any executor or adminiſtrator, before any eſtate is repreſented inſolvent, ſhall when ſuch eſtate is found to be inſolvent, be diſcontinued unleſs the executor or adminiſtrator conſent to have a trial at law as before directed in this act.

Widow's dower to be ſet off in ſixty days.

SEC. 90. *And it is hereby further enacted*, That upon the death of any man poſſeſſed of any real eſtate as aforeſaid, in which his widow by this act as before expreſſed, has a right of dower, if the perſon or perſons that by law have a right to inherit ſuch eſtate, do not within ſixty days next after the death of ſuch huſband, by a committee or committees of three judicious and diſintereſted perſons, to be appointed by the judge of probate granting letters of adminiſtration, and ſworn for that purpoſe, ſet out and aſcertain ſuch right of dower, that then ſuch widow ſhall make her complaint to the ſaid judge of probate, which judge ſhall decree and order, that ſuch woman's dowry ſhall be ſet out and aſcertained by a committee or committees as aforeſaid, who ſhall be ſworn faithfully to proceed and act therein, according to their beſt judgement. And the ſaid dower being ſet out and aſcertained in either of the methods aforeſaid, the doings of ſuch committee or committees, ſhall be returned to the judge who ordered the dower to be ſet out as aforeſaid, and upon approbation thereof by the ſaid judge, ſaid dower ſhall remain fixed and certain, and all perſons concerned therein ſhall be concluded thereby.

Where no diviſion can be

SEC. 91. *And it is hereby further enacted*, That of inheritances that ſhall be entire, where no d viſion can be made by metes and

bounds, or where a woman cannot be endowed of the premiſes, ſhe ſhall be endowed thereof, in a ſpecial and certain manner, as of the third part of the rents, iſſues or profits thereof, to be computed and aſcertained by the committee or committees, in manner as aforeſaid.

made the widow ſhall be endowed in the rents.

SEC. 92. *And it is hereby further enacted*, That no woman, who ſhall be endowed of any lands, tenements, or other inheritances as aforeſaid, ſhall commit or ſuffer any ſtrip or waſte thereupon, but ſhall maintain the houſes and tenements, with the fences and appurtenances thereof, with which ſhe ſhall be ſo endowed, in good repair, during the term, and leave the ſame ſo at the expiration thereof, and ſhall be liable to action for any ſtrip or waſte by her done, committed or ſuffered.

Widows endowed not to commit waſte.

SEC. 93. *And it is hereby further enacted*, That the judges of probate in their reſpective diſtricts, ſo often as there ſhall be occaſion, be and are hereby empowered, to allow of guardians, that ſhall be choſen by minors of fourteen years of age, and to appoint guardians for ſuch as ſhall be within or under that age, taking ſufficient ſecurity of all ſuch guardians, for the faithful diſcharge of their truſt, and to account, either with the judge or minor, when ſuch minor ſhall arrive to the age of twenty one years, if a male, or at the age of eighteen if a female, or at ſuch other time as the judge upon complaint to him made, ſhall direct. And when any minor above the age of fourteen years, ſhall be cited by the judge of probate to chuſe a guardian, and ſuch minor ſhall refuſe or neglect to appear, or when appearing ſhall refuſe to chuſe a guardian, or any guardian choſen by ſuch minor ſhall be unable to give ſufficient ſecurity, or ſhall refuſe the truſt, or when any minor above the age of fourteen

Judges of probate to appoint guardians and take ſecurity.

years ſhall be without this government, in every ſuch caſe the judge of probate ſhall have the ſame power to appoint a guardian, as though ſuch minor were under the age of fourteen years.

Provided nevertheleſs, That when a minor above the age of fourteen years, living more than ten miles diſtance from the judge of probate's dwelling houſe, ſhall chuſe a guardian, ſuch minor may have that choice certified to the judge by any juſtice of the peace in the ſame county, or by the town clerk, if no juſtice ſhall dwell in ſuch town, which choice ſo certified, ſhall be deemed as good and valid, as if done in the judge's preſence.

Guardians to give bonds.

SEC. 94. *And it is hereby further enacted*, That the guardians appointed as aforeſaid, ſhall give bond to the judge of probate, for the time being, and his ſucceſſors in office, in a reaſonable ſum in the diſcretion of the judge, for the faithful diſcharge of the truſt repoſed in them; and more eſpecially, for the rendering a juſt and true account of their guardianſhip, when and ſo often as they ſhall be thereunto required.

Judge may require farther ſecurity.

SEC. 95. *And it is hereby further enacted*, That when the judge of probate ſhall know, or have cauſe to ſuſpect, that the guardian, or the ſurety or ſureties of any guardian, is or are failing, may require and compel ſuch guardian to give ſupplemental ſecurity, and on his refuſal or neglect may diſplace him.

Guardian to exhibit an inventory of his ward's eſtate.

SEC. 96. *And it is hereby further enacted*, That every guardian ſo appointed, ſhall make and exhibit an inventory of all the eſtate of his ward, both real and perſonal, to the judge of probate, within ſuch time as the ſaid judge ſhall direct, which inventory ſhall be recorded in a book to be kept for that purpoſe; and ſuch guardian ſhall once in every year (and

oftener) if thereto ſpecially required, render an account of the proceeds and expenditures of ſaid eſtate; which account the ſaid judge of probate ſhall examine, audit and paſs, as to him ſhall appear juſt and equitable, and keep a record thereof.

And render an account when required.

SEC. 97. *Provided always, and it is hereby further enacted,* That if after the ward ſhall arrive of full age, he or ſhe ſhall be diſſatisfied with the account paſſed as aforeſaid, or if the ward ſhall die before he or ſhe arrive of full age, and the legal repreſentatives of ſuch ward ſhall be diſſatisfied as aforeſaid, in either caſe the ſaid ward, or his or her repreſentatives, ſhall have a remedy againſt the guardian, on his or her bond, for ſuch parts of the account, paſſed as aforeſaid, as the ſaid ward or his or her legal repreſentatives ſhall be able to falſify, or prove the injuſtice thereof.

Ward diſſatisfied with ſuch account after he arrives at full age may have relief.

SEC. 98. *And it is hereby further enacted,* That if a guardian ſhall neglect or refuſe to make and exhibit ſuch inventory, and render his or her accounts as aforeſaid, he or ſhe ſhall be ſummoned by the judge of probate to ſhow cauſe for ſuch default, and if he or ſhe do not ſhow ſufficient cauſe, he or ſhe may be compelled to perform his or her duty, or be diſplaced.—And the ſummons or other proceſs may be ſerved in the ſame manner, as is provided for the execution of any other ſentence, order or decree of the judge of the court of probate.

Guardian neglecting or refuſing to exhibit an inventory or account may be diſplaced.

SEC. 99. *And it is hereby further enacted,* That if the rents and profits of the eſtate of any ward, ſhall annually exceed the neceſſary expenditures for his or her ſupport, the balance ſhall be put out at intereſt for the benefit of ſuch ward upon ſuch ſecurity as the judge ſhall direct or the guardian, if it remain in his or her hands, ſhall account for the ſame with

Balance of ward's income to be put to intereſt.

intereſt to be computed from the time his or her accounts were or ought to have been paſſed.

Guardian may bind his ward.

SEC. 100. *And it is hereby further enacted,* That any guardian may bind his or her ward to ſuch perſon, for learning ſuch art or trade, and with ſuch covenants on the part of the maſter or miſtreſs as he ſhall think proper.

Sureties of guardians in danger of ſuffering may have relief.

SEC. 101 *And it is hereby further enacted,* That if any ſurety for a guardian ſhall conceive him or herſelf in danger of ſuffering thereby, he or ſhe may have relief in the ſame manner as is before directed and provided in this act in behalf of ſureties for executors and adminiſtrators.

Executors adminiſtrators and guardians not compellable to plead ſpecially.

SEC. 102. *And it is hereby further enacted,* That executors, adminiſtrators and guardians ſhall not be compelled to plead ſpecially to any action or ſuit at law brought againſt them in their ſaid capacity, but may under the general iſſue give any ſpecial matter in evidence.

Probate bonds how proſecuted.

SEC. 103. *And it is hereby further enacted,* That on application to the judge of probate by any perſon who has been injured by the breach of any conditions contained in the bond taken by ſuch judge of any executor or executors, adminiſtrator or adminiſtrators as before directed in this act, requeſting ſuch bond to be put in ſuit, it ſhall be the duty of the judge to whom ſuch bond was or ſhall be taken on ſuch applicant giving good and ſufficient ſecurity to the ſatisfaction of ſuch judge to proſecute ſuch ſuit and to anſwer and pay all damages and coſts in caſe of failure to proſecute to effect, to cauſe an action to be brought on ſuch bond and ſhall certify to the court before whom ſuch action ſhall be brought, the name of the perſon making ſuch application who ſhall be taken and deemed to be the proſecutor in ſaid action.—

And if the defendant or defendants in ſuch action ſhall plead performance of the conditions of ſuch bond, the proſecutor may in reply aſſign as many breaches affecting his right and intereſt thereon as he ſhall think fit, and the jury upon the trial of ſuch iſſue or iſſues as ſhall be thereupon put to them, ſhall find and aſſeſs damages, for ſuch breaches as the proſecutor ſhall prove, and on ſuch verdict the court ſhall enter up judgment for the whole penalty of the bond and execution ſhall iſſue in favor of the proſecutor for ſuch ſum as the jury ſhall have found in damages and coſts; and if judgment in ſuch action ſhall be rendered for the plaintiff on demurrer, or on confeſſion by default, or *nil dicit* the proſecutor may aſſign as many breaches as aforeſaid, as he ſhall think fit, the truth whereof ſhall be found and the damages ſuſtained be aſſeſſed according to law, and execution ſhall iſſue in favor of the proſecutor for the amount of ſuch damages and coſts, and the judgment ſhall remain as a ſecurity for any farther or other breaches of the conditions of ſaid bond. And any perſon thereafter who ſhall be injured by any breach of the condition of ſaid bond, or the executors or adminiſtrators of ſuch perſon, may proſecute a *ſcire facias* on that judgment from time to time, in his, her or their own name, and right, or in the right of thoſe whom they repreſent, againſt the defendant or defendants, his, her or their executors and adminiſtrators, and may thereupon aſſign as many breaches affecting his right and intereſt as he ſhall think fit, and thereupon damages ſhall be aſſeſſed and execution iſſued in favor of ſuch laſt mentioned proſecutor as aforeſaid. And if the plaintiff or plaintiffs in any of the actions aforeſaid ſhall not prove a breach or breaches of the condition of ſaid bond affect-

ing their own right and intereſt therein, he, ſhe or they ſhall pay reaſonable coſts to the defendant, of which he, ſhe or they may have execution in due form of law.

Judges of probate to have ſeals for their court and ſhall appoint a clerk or regiſter who ſhall be ſworn.

SEC. 104. *And it is hereby further enacted*, That every judge of probate ſhall have a ſeal for ſaid court; and ſhall appoint a clerk or regiſter of ſaid court, with the power of removal, who ſhall be duly ſworn to the faithful diſcharge of his duty, who ſhall keep true and fair records of each order, ſentence and decree of ſaid court, and all other matters proper to be recorded—And it ſhall be the duty of ſuch clerk or regiſter on application, and reaſonable compenſation tendered, to give true copies from the records and proceedings of ſaid court, which copies properly atteſted ſhall be conſidered as proper evidence in all courts of law and equity.

Paſſed March 10, 1797.

CHAPTER XVIII.

An ACT *defining what ſhall be deemed and adjudged a* legal ſettlement; *and for the ſupport of the* poor; *for deſignating the duties and powers of the* overſeers of the poor; *and for the* puniſhment of idle *and* diſorderly perſons.

A legal ſettlement how obtained in any town or place.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That every perſon who ſhall purchaſe a freehold eſtate of the value of one hundred dollars, and ſhall have *bona fide* paid therefor, and ſhall actually occupy and improve the ſame for the term of one whole year; or ſhall actually and *bona fide* have rented and occupied a tenement of the yearly value of twenty dollars or upwards, for the term of two whole

years, and actually paid such rent; and every person who shall inhabit in any town or place within this state, and shall for himself, or on his own account, have executed any public office or charge in such town or place, during one whole year, or shall have been charged with and paid his or her share of the public rates or taxes of such town or place for the space of two years; and every person who shall have been bound an apprentice or servant by indenture, or by any deed, contract or writing not indented, and shall in consequence of such binding, have served a term not less than three years next preceding the time of such apprentice's arriving at the age of twenty-one years, if a male, or at the age of eighteen years, if a female, in such town or place, shall be deemed and adjudged to have attained a legal settlement in such town or place; and every other healthy able bodied person coming and residing within this state, and being of peaceable behaviour, shall be deemed and adjudged to be legally settled in the town or place in which he or she shall have first resided for the space of one whole year; and every bastard child shall be deemed and adjudged to be settled in the town or place of the last legal settlement of his or her mother.

Overseers to provide for the support of the poor, blind, &c. within their several towns.

SEC. 2. *And it is hereby further enacted*, That every town and place in this state shall relieve, support and maintain their own poor: And the overseers of every town or place, shall relieve, support and maintain all the poor, lame, blind, sick and other inhabitants within such town or place who are not able to maintain themselves, and shall provide for them houses, nurses, physicians and surgeons, in such cases as they or a majority of them shall judge necessary; and shall also take effectual

measures to prevent the poor reſident within their reſpective towns or places, from ſtrolling into any other town or place.

Two juſtices are empowered to examine ſtrangers as to their ability and legal ſettlement on the complaint of the overſeers of the poor.

SEC. 3. *And it is hereby further enacted*, That if any overſeer or overſeers of the poor of any town or place, ſhall find, ſuſpect, or have reaſon to believe that any ſtranger who ſhall have come to reſide in ſuch town or place, and has not gained a legal ſettlement therein according to the true intent and meaning of this act, has already, or is likely to become chargeable to ſuch town or place, it ſhall be lawful for any two juſtices of the peace of the ſame county not inhabitants of ſuch town or place, on complaint of ſuch overſeer or overſeers, to iſſue their warrant to a conſtable of ſuch town or place, or to ſome other, perſon ſpecially authoriſed by ſaid juſtices, thereby commanding him to bring ſuch ſtranger before them, to be examined in the premiſes, and the ſaid juſtices ſhall examine every ſtranger ſo brought before them, and any other perſon or perſons upon oath, touching the ability and laſt place of legal ſettlement of ſuch ſtranger, and if upon ſuch examination the ſaid juſtices ſhall find ſuch ſtranger likely to become chargeable to ſuch town or place, they ſhall order and direct ſuch ſtranger by a certain day by them to be prefixed to remove to the place of his or her former ſettlement, and if ſuch ſtranger ſhall neglect or refuſe to comply with ſuch order, the ſaid juſtices ſhall iſſue their warrant directed to any conſtable of ſuch town or place, or to ſome other perſon ſpecially authoriſed as aforeſaid, who is hereby required to execute ſuch warrant, thereby commanding him to remove and tranſport ſuch ſtranger with his or her family and effects, (if any he or ſhe have) on the neareſt and moſt convenient rout, to the place of ſuch ſtranger's legal ſettlement, if the

ſame ſhall be within this ſtate, and lodge ſuch ſtranger with the overſeer or overſeers of the town or place as directed in his warrant, and leave with him or them an atteſted copy of his ſaid warrant.

Proviſion in caſe a ſtranger be ſick, and unable to be removed

SEC. 4. *Provided nevertheleſs, and it is hereby further enacted*, That if ſuch ſtranger be ſick, or diſabled, and cannot be removed, without endangering life, the overſeers ſhall provide for his or her maintenance, or cure at the charge of ſuch town or place, and after the recovery of ſuch ſtranger, ſhall cauſe him or her to be ſo removed, and the town or place in which he or ſhe was laſt legally ſettled, ſhall repay all charges occaſioned by the ſickneſs, maintenance, or cure of ſuch ſtranger, and for the removal of him or her; and ſhall alſo repay all charges and expences incurred, if ſuch ſtranger ſhall die before removal—

Overſeers of poor liable to an action for monies expended to ſupport their poor, &c.

And if the overſeers of the poor of the town or place, in which ſuch ſtranger was laſt legally ſettled, ſhall neglect or refuſe to repay and ſatisfy, all the charges and expences as aforeſaid, within fifteen days after notice ſhall be given in writing, the ſame may be recovered from them, by an action to be brought in the names of the overſeers, by whom ſuch diſburſments may have been made, in any court proper to try the ſame

Penalty on overſeers who refuſe to receive or provide for ſtrangers removed.

SEC. 5. *And it is hereby further enacted*, That if the overſeers of the poor, of any town or place to which ſuch ſtranger belongs, ſhall refuſe to receive, or neglect to provide for the ſupport and maintenance of ſuch perſon or perſons ſo removed, every overſeer ſo refuſing or neglecting, ſhall forfeit and pay for each offence, the ſum of thirty dollars, to the uſe of the poor of the town or place, from which ſuch perſon or perſons was, or were ſo

removed, to be recovered with coſts of ſuit, by the overſeers of ſuch town, or place, by action of debt brought on this ſtatute.

Overſeers aggrieved entitled to an appeal from the order or warrant of removal.

SEC. 6. *Provided always, and it is hereby further enacted*, That if any overſeer, or overſeers of any town or place, ſhall think himſelf or themſelves aggrieved, by any order or warrant of removal as aforeſaid, he or they may appeal therefrom, to the county court next to be holden within and for the county, in which ſuch order was made, or from which ſuch ſtranger ſhall be removed, he or they firſt entering into a recognizance, before one of the juſtices making ſuch order, in ſuch ſum as he ſhall direct, *conditioned*, that he or they ſhall proſecute ſuch appeal to effect, and pay all damages, occaſioned to the overſeers of the town or place, at whoſe application and for whoſe benefit ſuch order was made. And the appellant or appellants ſhall give reaſonable notice to the appellee or appellees; the reaſonableneſs of which notice, the court to which the appeal is made, ſhall determine: and if it ſhall appear that reaſonable notice has not been given, the court ſhall direct ſuch appeal to be continued, until the next ſeſſion of ſaid court, then and there to be finally heard and determined.

Appellant to give reaſonable notice to appellees.

Courts to order monies expended for the ſupport of perſons unduly removed to be paid and award damages to appellants.

SEC. 7. And to prevent vexatious removals, and frivolous appeals, *It is hereby further enacted*, That if upon the trial of any ſuch appeal, it ſhall be determined, that ſuch ſtranger or ſtrangers, was or were *unduly* removed, the court ſhall order and award to the appellant or appellants, ſo much money as ſhall appear to have been reaſonably paid and expended, by the overſeer or overſeers of the town or place, on whoſe behalf ſuch appeal was had, for the ſupport and maintenance of ſuch ſtranger or ſtrangers; and alſo ſuch further ſum in their

diſcretion, as the court ſhall judge the appellant or appellants ſhall be equitably entitled to, for monies expended in and about ſuch appeal, together with coſts, and iſſue execution accordingly. But if upon the trial of any ſuch appeal it ſhall be determined that ſuch ſtranger or ſtrangers was or were *duly* removed, the court ſhall in ſuch caſe order and award to the appellee or appellees, ſuch ſum as they ſhall judge, he or they is or are entitled to, for monies expended in and about ſuch appeal, together with coſts, and iſſue execution accordingly.

Court to award damages to appellees.

SEC. 8. *And it is hereby further enacted*, That every conſtable or other perſon, who ſhall remove and tranſport any ſtranger or ſtrangers, ſhall receive ſo much money for his ſervices, as the juſtices making the order of removal ſhall judge reaſonable; and certifying the ſum under their hands, the overſeers of the poor of the town or place, from which ſuch ſtranger or ſtrangers was, or were removed, ſhall immediately pay the ſame.

Compenſation to the conſtable removing ſtrangers how aſcertained and paid.

SEC. 9 *Provided always, and it is hereby further enacted*, That the father and grand-father, mother and grand-mother, the children and grand-children, (being of ſufficient ability) of any poor, lame, blind, ſick or impotent perſon, not able to ſupport and maintain him or herſelf, and becoming chargeable to any town or place within this ſtate, ſhall ſeverally and reſpectively, at his, her or their charges and expences, relieve, ſupport and maintain every ſuch poor perſon as aforeſaid, in ſuch manner and proportion, as the county court in the county, in which ſuch poor, lame, blind, ſick or impotent perſon reſides, on the complaint and repreſentation of the overſeers of the poor in the town where ſuch perſon lives, ſhall order and direct. And if any ſuch relation or relations

Relations to ſupport their poor connexions within certain degrees.

Penalty for refuſing to relieve connexions.

ſhall neglect or refuſe to comply with the order of ſuch court, or to give ſufficient ſecurity to the overſeers of ſuch town or place, he, ſhe or they, ſhall forfeit and pay the ſum of three dollars, for each perſon ſo ordered to be relieved for every week he, ſhe, or they ſhall fail therein; to be recovered with coſts of ſuit, by the overſeers of the poor of the town or place to which ſuch poor, lame, blind, ſick or impotent perſon or perſons ſhall be chargeable, to the uſe of the poor of ſuch town or place, by action of debt brought on this ſtatute in any court proper to try the ſame.

Perſons not inhabitants of this ſtate how provided for—*Repealed.*

SEC 10. [This ſection repealed November 8, 1797, and directed to be omitted.]

Tranſient perſons taken ſick, how provided for.

SEC. 11. *And it is hereby further enacted*, That if any tranſient perſon ſhall be ſuddenly taken ſick or lame, or ſhall be otherwiſe diſabled and confined at any houſe, in any town or place in this ſtate, and ſhall be in need of relief, the perſon at whoſe houſe ſuch tranſient perſon ſhall be confined, ſhall ſuſtain the expence of relieving and ſupporting ſuch perſon, until he or ſhe ſhall repreſent the ſituation of ſuch tranſient perſon, to the overſeers of the poor of ſuch town or place, after which the ſaid overſeers ſhall provide for the ſupport of ſuch tranſient perſon; and if ſuch perſon be not of ſufficient ability to defray the expence of his or her ſupport, with the other contingent charges, the ſaid overſeers may recover the ſame by an action for money laid out and expended, from the town or place of ſuch perſon's legal ſettlement, if within this ſtate, or of the relations of ſuch perſon liable by law for his or her ſupport, being of ſufficient ability, if any relation he or ſhe have.

Penalty on thoſe who bring

And if any perſon or perſons ſhall tranſport or bring into any town or place in this ſtate, any poor perſon or perſons, not

having obtained a legal ſettlement within the ſame, within intent to make the ſtate, or any town or place, within this ſtate chargeable with the maintenance and ſupport of ſuch poor perſon or perſons; every perſon ſo offending, ſhall forfeit and pay a ſum not exceeding three hundred dollars, one moiety to him her or them who ſhall ſue for the ſame, and the other moiety to the uſe of the town, into which ſuch poor perſon or perſons ſhall be ſo tranſported, or brought, together with coſts of ſuit, to be recovered by action on this ſtatute before any court proper to try the ſame.

poor perſons into this ſtate.

SEC. 12. *And it is hereby further enacted*, That the inhabitants of any town or diſtrict, with town privileges, in this ſtate, may build, purchaſe or hire anhouſe of correction, or work-houſe, in which to confine and ſet their poor to work: And at any legal meeting, may raiſe all ſuch ſums of money, as they ſhall judge neceſſary for the purpoſe of building, purchaſing, hiring or maintaining ſuch houſe; and ſuch houſe may and ſhall be uſed for keeping, correcting and ſetting to work vagrants, common beggars, and idle and diſorderly perſons. And ſuch town at any legal meeting, may appoint all proper officers for the government of ſuch houſe; and may make and eſtabliſh all neceſſary rules, orders and regulations not repugnant to the laws of this ſtate, for the ruling, governing, and regulating of ſuch perſons, as may be there committed; and ſuch rules, orders and regulations by them ſo made ſhall be put in execution: *Provided*, that in no caſe the puniſhment inflicted by ſuch rules, orders and regulations, ſhall exceed hard labor, during confinement in ſuch houſe, wearing fetters and ſhackles during ſuch time, or whipping to the number of twenty

Towns may provide houſes of correction.

ſtripes ; and the overſeers of the poor of ſuch town or diſtrict, ſhall furniſh neceſſary materials for ſetting ſuch poor perſons to work.

Juſtices may commit vag. rants to the houſe ofcorrection.

SEC. 13. *And it is hereby further enacted*, That any juſtice of the peace, on complaint made in writing, may commit to the houſe of correction, to be kept and governed according to the rules and orders of ſuch houſe, any vagrant, lewd, idle or diſorderly perſon, or perſons going about begging, or carrying and exhibiting ſhows, perſons uſing any ſubtle craft, juggling or unlawful games or plays, or perſons pretending to have knowledge in phyſiognomy, or palmiſtry, or perſons pretending that they tell deſtinies or fortunes, or diſcover by any ſhells, or magic art, where loſt or ſtolen goods may be found, common pipers, fiddlers, runaways, ſtubborn ſervants, common drunkards, common night walkers, pilferers, perſons wanton and laſcivious in ſpeech, conduct or behaviour, common railers or brawlers, ſuch as neglect their calling and employments, miſpend what they earn, and ſuch as do not provide for themſelves or the ſupport of their families, who ſhall be duly convicted of any of the offences or diſorders aforeſaid, and in ſuch houſe of correction to be detained a term not exceeding three months, as the ſaid juſtice ſhall direct—And in caſe there be no houſe of correction or work houſe, in any ſuch town, the ſaid juſtice ſhall by warrant under his hand, order ſuch perſon or perſons to be delivered over to ſome overſeer of the ſame town, to be employed in labor not exceeding three months as aforeſaid, and by ſaid overſeer of the poor be hired out for the beſt wages that can be procured, the proceeds of which to be applied to the uſe of the poor of ſuch town.

Select-men to make complaint if any perſon is likely to become chargeable to the town by exceſſive drinking, &c. to two juſtices.

SEC. 14. *And it is hereby further enacted*, That if any perſon by exceſſive drinking, gaming, idleneſs, or debauchery of any kind, ſhall ſo ſpend, waſte, or leſſen his or her eſtate, as thereby to expoſe him or herſelf, or his or her family, or any of them, to want or ſuffering circumſtances, or ſhall by thus ſpending, waſting or leſſening his or her eſtate, endanger or expoſe the town to which he or ſhe belongs, in the judgment of the ſelectmen and civil authority of ſuch town, or a major part thereof, to a charge and expence for the ſupport and maintenance of him or her, or his or her family, or any of them, ſuch ſelectmen and civil authority, or the major part of them, ſhall, in ſuch caſe, lodge a complaint with any two juſtices of the county, not inhabitants of the ſame town to which the perſon ſo ſpending, waſting or leſſening his or her eſtate belongs; and the ſaid juſtices ſhall iſſue their citation thereon, (cauſing due notice to be given of the complaint exhibited againſt him or her) for ſuch perſon to appear before them, at a certain time and place by them to be prefixed, to be heard in the premiſes. And if upon examination it ſhall appear that the perſon complained of, comes within the deſcription, true intent and meaning of this act, the ſaid juſtices ſhall appoint the ſaid ſelectmen, or the major part of them, or ſome other ſuitable and diſcreet perſon or perſons, guardian or guardians, to ſuch perſon; and any bargain, ſale or contract, of any real or perſonal eſtate, made by ſuch perſon after the appointment of guardianſhip as aforeſaid, ſhall be held null and void in law. And ſuch guardian or guardians is or are hereby authoriſed and empowered, to take ſuch perſon and his or her family, if any he or ſhe have, under his or their care, and ſuch perſon and family

assign, bind or hire out in service, as they shall judge most proper—And having taken under his or their care, such person and his or her family, the said guardian or guardians is, or are hereby further authorised and empowered, to take into his or their custody, all the lands, goods, chattels, rights and credits of such person, and the same dispose of, and manage in such manner as will most conduce to the interest, and advantage of such person, or his or her heirs.

Guardians to take such persons and their estates under their care.

Guardians not to sell real estase without order from supreme court.

Provided always, That no guardian or guardians shall sell or convey the lands of such person, without the order and permission of the supreme court of judicature, first had and obtained.

Guardian to set up notification forbidding all persons to make any contracts with such person.

SEC. 15. *And it is hereby further enacted*, That such guardian or gurdians, shall as soon as may be, after his or their appointment, set up a notification or notifications thereof, in some public place or places in the town, to which such person belongs, making known to all people, that any bargain, sale or contract made with such person or persons, will be held null and void in law, and shall also within ten days, after taking such estate into his or their custody, make, or cause to be made a true and perfect inventory, of all and singular the lands, goods, chattels, rights and credits of such person, which shall come into his or their hands and possession, with a just appraisal, of the true value of every article thereof, in money, by two or more judicious and disinterested freeholders, under oath, to be appointed by some justice of the peace in the same county, not an inhabitant of such town; which inventory so taken, shall be lodged in the town clerk's office of such town, and be there recorded at large.

To make an inventory, appraisal, and record of such person's estate.

And if any perſon or perſons ſhall detain or withhold, from ſuch guardian or guardians, any lands, goods, chattels, rights, or credits, belonging to ſuch perſon, the ſaid guardian or guardians, is or are hereby empowered, to demand and recover the ſame, by due courſe of law, and may have the ſame remedy, proceſs and proceedings againſt ſuch perſon, or perſons, as is provided by law, againſt perſons ſuſpected of the embezzlement of teſtate and inteſtate eſtate, which being recovered and received by ſuch guardian or guardians, the ſame ſhall be inventoried and recorded, as aforeſaid, and out of the eſtate of ſuch perſon, the ſaid guardian or guardians ſhall pay the juſt debts of ſuch perſon, ſo far as the ſame ſhall extend.

Perſons detaining or withholding the eſtates of ſuch perſons; how to be proceeded againſt.

Provided always, and it is hereby further enacted, That if any perſon or perſons ſhall be aggrieved, at all or ſingular the doings of ſuch guardian or guardians, he, ſhe or they, on complaint to the county court of the ſame county, may be relieved in the premiſes, he, ſhe or they firſt entering into a ſufficient recognizance with ſureties, before the authority iſſuing the citation upon ſuch complaint, to proſecute the ſame to effect, or to pay all coſts and damages occaſioned to ſuch guardian or guardians thereby, of which complaint the ſaid guardian or guardians, ſhall have reaſonable notice, to be determined by the court: And the ſaid court is hereby authoriſed and empowered, to order and direct ſuch relief in the premiſes as on a hearing of the caſe they ſhall judge juſt and reaſonable, and carry the ſame into effect.

Perſon aggrieved remedy provided.

SEC. 16. *And it is hereby further enacted,* That every perſon againſt whom ſuch com-

Persons under guardianship as aforesaid, disabled from making contracts, &c. until reformed.

plaint shall be made as mentioned in the fourteenth section of this act, and whose estates shall be taken and disposed of agreeably to this act, shall be disabled to make any bargain sale, contract or other act or deed which shall be binding upon his or her estate, as minors, under guardians by law are, until by his or her industry, good management and application to business, he or she shall obtain a certificate, under the hand or hands of such guardian or guardians, that such person is reformed, and such guardian or guardians shall thereupon restore to such person the residue of his or her estate, not disposed of, to pay his or her debts, or expended for his or her support and maintenance; and such guardian or guardians shall be liable in action of account, for the disposition and expenditure of such estate, as shall have come into his or their hands and possession.

When reformed estate to be restored to him.

Persons thinking themselves entitled to a restoration, may apply to the county court.

Provided always, That if any person shall think him or herself entitled to a restoration of his or her estate, upon reformation as aforesaid, he or she may apply therefor, to the county court of the same county for relief, by entering into a recognizance, and giving reasonable notice, in the same manner, as is directed in the last preceding section of this act.

Overseers of the poor to bind out all idle persons.

SEC. 17. *And it is hereby further enacted*, That the overseers of the poor in every town or district in this state, are hereby authorised and empowered, to bind out to labor, or to employ in their work-house, (if there be any) every person residing in such town or district, of what age soever, who live idly and pursue no lawful calling or business, and who shall be poor, and in need of the relief of such town

or district, or whose families shall be in need of such relief or are supported by such town or district, and every contract made by such overseers, in any of the cases aforesaid shall be as good and effectual as if such person bound him or herself the same term of time, and such overseers shall and may take the wages, and appropriate the same to the maintenance, of such person, his, or her family or children.

Provided always, That such contracts shall be made in writing, and shall express the term such person is to serve, which shall not exceed one year at a time, but may be renewed, or made for a shorter time as there may be occasion. Such contract to be made in writing.

SEC. 18. *And it is hereby further enacted*, That the overseers of the poor of the respective towns and districts in this state, are hereby empowered to set to work in their workhouse, or elsewhere, or bind out apprentices, as they shall think best, all such children as are chargeable to such towns, or who do not employ themselves in some lawful business, and whose parents are unable to maintain them, and do not bind them out in good families; the males may be bound out till they arrive at the age of twenty one years, and the females till they arrive at the age of eighteen years, and such binding shall be good and effectual in law, to all intents and purposes; and the said overseers shall make their contract equitably and for the benefit of the person so bound out, as much as may be, at least that the males be instructed to read and write, and the females to read, and do such work and business as may be suitable to their circumstances and condition, as far as such children may be respectively capable—And the said overseers shall enquire into the usage Overseers to bind out the children of poor people. Overseers to superin-

tend their treatment

and treatment of all perſons by them, or their predeceſſors, bound out, and ſhall endeavor to redreſs any wrongs or injuries they may ſuſtain. And the perſons to whom they are bound out, ſhall have the ſame authority over them, as maſters of apprentices have by law over their apprentices, during their apprenticeſhips.

Parents abſconding guardians to be appointed over their eſtates.

SEC. 19. *And it is hereby further enacted*, That when any huſband or father ſhall run away, or abſent himſelf from his wife, child or children, or when any widow ſhall runaway, or abſent herſelf from her child or children, and leave him, her or them a charge to any town or diſtrict in this ſtate, or likely to become chargeable to ſuch town or diſtrict, it ſhall and may be lawful for the ſelectmen and civil authority of ſuch town, or diſtrict, to lodge their complaint with any two juſtices of the peace of the ſame county, not inhabitants of the town or diſtrict to which ſuch abſconding perſon belonged, ſtating the circumſtances of the caſe; and the ſaid juſtices, if they ſee cauſe, may appoint the ſaid ſelectmen, or any other ſuitable and diſcreet perſon or perſons, guardian or guardians over ſuch abſconding perſon's eſtate, both real and perſonal in the ſame manner, as is directed in the fourteenth ſection of this act, and ſuch perſon ſhall be liable to the ſame diſabilities relating to his or her eſtate, and all bargains, ſales, contracts, or other acts and deeds made, done or ſuffered with ſuch perſon, ſhall be null and void, as is in ſaid ſection preſcribed; and the ſaid guardian or guardians ſhall take into his or their cuſtody all the eſtate of ſuch abſconding perſon, both real and perſonal, and make or cauſe to be made an inventory, appraiſal and record thereof, as is therein directed; and the ſaid guardian or guardians ſhall take the child or child

Guardians to take ſuch eſtate into cuſtody.

ren of ſuch abſconding perſon under his or their care, and him, her or them hire out, or bind in ſervice, as he or they ſhall judge moſt proper, and the eſtate of ſuch perſon ſo abſconding, diſpoſe of and manage in ſuch manner, as will beſt conduce to the intereſt of ſuch abſconding perſon, his, her or their heirs, and out of the ſame pay the debts of ſuch abſconding perſon, as far as the ame will extend ; and if the eſtate be more than ſufficient to pay the debts, to apply the ſame and the rents or proceeds thereof for the ſupport and maintenance of ſuch child, or children. And the ſaid guardian or guardians in the diſpoſition and management of ſuch abſconding perſon's eſtates, and in his or their care over the child, or children of ſuch perſon, ſhall have the ſame powers, proceed in all things, as near as circumſtances will admit, in the ſame manner, be governed by the ſame principles, and be under the ſame accountability, as is or are given, directed and preſcribed in the *ſixteenth*, *ſeventeenth* and *eighteenth* ſections of this act.

May hire or bind out children.

To pay debts of ſuch abſcond. ing parent.

And if ſuch abſconding perſon, or any other perſon or perſons, ſhall be aggrieved at all or ſingular the doings of ſuch guardian or guardians, he, ſhe or they ſhall have the ſame remedy, as is provided in the ſaid fifteenth ſection of this act.

SEC. 20. *And it is hereby further enacted*, That if any poor perſon belonging to any town or diſtrict within this ſtate, ſhall apply for relief to any overſeer or overſeers of the poor of ſuch town or diſtrict, the ſaid overſeer or overſeers ſhall make application to a juſtice of the peace of ſuch town or diſtrict, and if there be no ſuch juſtice, then to a juſtice of the peace in the county in which ſuch town or diſtrict lies, which juſtice with the o-

Any perſon applying for relief, the overſeers, aſſiſted by a juſtice, ſhall examine into the

circumſtances of ſuch perſon.

verſeer or overſeers, ſhall enquire into the ſtate and circumſtances of the perſon ſo applying, and if it ſhall appear to the ſaid juſtice, and the overſeer or overſeers, that ſuch perſon is in indigent circumſtances, then the ſaid juſtice ſhall give an order in writing to the ſaid overſeer or overſeers of the poor, to make

And order weekly or other allowance.

ſuch allowance weekly, or otherwiſe, to every ſuch poor perſon, as they in their diſcretion ſhall think, his or her circumſtances require, and the ſaid overſeer or overſeers ſhall make no other or further allowance, than what by the ſaid order ſhall be directed; and the ſaid overſeer or overſeers by virtue of ſuch order, may call upon the treaſurer of ſuch town or diſtrict, from time to time, for ſo much money as ſhall be neceſſary for the ſupport and maintenance of ſuch poor perſon; who is hereby directed and required to pay the ſame, taking a writing under the hand or hands of ſuch overſeer or overſeers, acknowledging the receipt of the ſame; which order and receipt, ſhall be ſufficient vouchers to the ſaid overſeer or overſeers, in the ſettlement and adjuſtment of his or their accounts reſpectively.

The treaſurer of the town directed to pay the ſame, and take receipts.

May draw on the treaſurer for five dollars before application.

Provided nevertheleſs, That if any poor perſon ſhall be under the neceſſity of immediate relief, the ſaid overſeer or overſeers may draw on the treaſurer, for a ſum not exceeding five dollars before he or they ſhall be obliged to make application to a juſtice of the peace as aforeſaid, and the ſaid treaſurer is hereby directed to pay the ſame, and take a receipt therefor as aforeſaid, and the ſaid overſeer or overſeers ſhall account therefor on ſettlement.

Poor perſons becoming an annual charge,

Provided alſo, and it is hereby further enacted, That if any poor perſon ſhall become an annual charge to any town or diſtrict, ſuch town or diſtrict is hereby authoriſed and empowered, at their annual March meeting, to

towns may dispose of.

disposé of such person in such way and manner, and to make such provision for his or her support and maintenance, as a majority of the inhabitants present shall agree upon.

Overseers to keep books and regular accounts of monies advanced &c. and account annually.

SEC. 21. *And it is hereby further enacted*, That it shall be the duty of the overseers of the poor to keep a book, in which they shall make fair entries of all the monies by them received, and expended for the use of the poor in their respective towns or districts, and also keep an accurate account of all the profits and proceeds, arising from the labor of any person or persons, hired out, or bound in service in any work-house, or otherwise, and annually settle and adjust the same.

Overseers to account with their successors in office.

SEC. 22. *And it is hereby further enacted*, That the overseers of the poor in their several towns or districts, shall annually, within fifteen days after the termination of their respective offices, exhibit to the succeeding overseers of the poor of such town or district, a particular full, just and true account, of all the monies by them respectively received and expended, for the use of the poor, and from whom, to whom, and in what manner, and for what uses and purposes, together with an account as aforesaid, of all the earnings of the poor persons by them respectively hired out, bound out, or otherwise employed, which accounts the said overseers, for the time being together with such committee as shall be appointed by the inhabitants of the respective towns or districts, shall as soon as conveniently may be, audit, settle and adjust—And the said overseers of the poor so going out of office, shall respectively, on adjusting such accounts, pay all such balance and sums of money as shall appear to be in his or their hands, and due from him or them to such town or district, to their successors in office, to be by them applied and

And deliver over books &c.

accounted for in the courſe of the next year, in the ſame manner as is herein before preſcribed. And the ſaid overſeers of the poor ſo going out of office, ſhall at the time of exhibiting their accounts for adjuſtment, deliver over to their ſucceſſors in office, all books of account, bonds, covenants, agreements, and other papers relating to the poor as aforeſaid, and the overſeer or overſeers of the poor, who ſhall refuſe or neglect to pay over the balance remaining in his or their hands, ſhall forfeit and pay a ſum not exceeding one hundred dollars, over and above ſaid balance, to be recovered with coſts of ſuit, in any court of record, by the overſeers of the poor of ſuch town or diſtrict for the time being; and when recovered ſhall be applied to the uſe of the poor of ſuch town or diſtrict; and if on adjuſting ſuch accounts, there ſhall appear to be a balance due to ſuch overſeers ſo going out of office as aforeſaid, or to either of them, the ſaid overſeers, for the time being, and the ſaid committee appointed by ſuch town or diſtrict, for the purpoſe aforeſaid, or the major part of them, ſhall draw their order on the treaſurer of ſuch town or diſtrict therefor, who is hereby directed to pay the ſame, out of the firſt monies which may be collected for the relief, ſupport and maintenance of the poor.

Penalty for neglect.

Overſeers for the time being to recover of their predeceſſors all monies, &c.

SEC. 23. *And it is hereby further enacted*, That the overſeers of the poor for the time being, in their reſpective towns or diſtricts, recover againſt their predeceſſors in office, and each of them, their executors or adminiſtrators, all ſuch ſums of money, as ſhall appear, upon adjuſting the accounts aforeſaid, to be due from them reſpectively, to ſuch reſpective town or diſtrict, in an action for monies had and received to the uſe of ſuch town or diſtrict, with coſts of ſuit, in any court of competent

jurisdiction; or to have and maintain an action or actions of account, against any former overseer or overseers of the poor of such town or district, his or their executors or administrators, and no such action shall be abated, or discontinued in consequence of the death, or termination of the office, of any such plaintiff or plaintiffs, but shall and may be continued and prosecuted to effect, by the survivor or survivors of them, or their successors in office; and such suit shall always be brought and maintained in the name of the overseers of the poor of such town or district, for the time being.

Actions not to abate.

SEC. 24. And whereas the building, hiring and keeping in repair a house of correction or work-house, may be attended with an expence beyond the ability of an individual town or district to sustain—Therefore,

Two or more towns empowered to join in building a work house.

It is hereby further enacted, That any two or more towns or districts, may by vote of the inhabitants of their respective towns or districts, at their annual March meeting, unite in the expence of building, purchasing, hiring and keeping in repair, a suitable house of correction or work-house, for the reception and confinement of the poor of such towns or districts, and others who may be ordered to be set to work therein, and may, by the vote as aforesaid, at any legal meeting for that purpose, raise money (in such proportion as shall be mutually agreed upon by committees chosen by the different towns or districts as aforesaid) to defray the expence, building, purchasing, hiring and keeping in repair, such house of correction or work-house; and may further by the votes of the inhabitants of such towns or districts, do all and singular the things for the ruling, governing, and regulating of

ſuch houſe of correction or work-houſe, and for the puniſhment of ſuch perſons, as may be confined therein, by order and direction of the overſeers of ſuch towns or diſtricts, or otherwiſe, as is and are contained in the twelfth ſection of this act.

CHAPTER XIX.

An ACT *regulating* town-meetings, *and the choice and duty of* town-officers.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That a meeting of the free-holders and inhabitants of every organized town in this ſtate, or which may hereafter organize, ſhall be holden at the meeting houſe, or at ſome other convenient place by ſuch town to be appointed, on ſome day in the month of March annually, at ten o'clock in the fore-noon, for the choice of town officers; and it is hereby made the duty of the ſelectmen in each town, for the time being, to ſet up a notification on the ſign-poſt, or at ſuch other place or places as have been, or may hereafter be agreed upon, in ſuch town, at leaſt twelve days before the time mentioned in ſuch notification, warning all the free-holders, and other inhabitants of ſuch town, qualified to vote in town-meeting, to meet at ſuch time and place. And every male perſon of twenty-one years of age and upwards, whoſe liſt ſhall have been taken in the town in which he reſides, ſhall during his reſidence, be conſidered as a legal voter in town-meetings.

Town meetings to be holden in the month of March annually.

Provided always, That if there ſhall be no ſelectmen in any town, or any annual town-meeting hath not been holden, or ſuch town hath never had any legal meeting, then ſome

Town meetings in unorganized

justice of the peace within and for the county in which such town lies, on the application of four credible free-holders, and inhabitants of such town, requesting him to warn a meeting for the choice of town-officers, may and he hereby is empowered, and required, to warn such meeting, in the same manner as the selectmen are above directed to pursue; and such justice shall preside in the meeting he shall so warn, until a moderator shall be duly appointed. towns how warned.

SEC. 2. *And it is hereby further enacted*, That at every annual, and other town-meeting, a moderator shall be first chosen by a majority of votes, except some other person is made the presiding officer by law, who shall thereby be empowered to manage and regulate the business of such meeting; and when any vote, declared by the moderator, shall immediately, (and before any other business be entered upon) be scrupled or questioned by three or more of the voters present, the moderator shall make the vote certain by polling the voters, or in such other way as the majority of the voters present may determine—And no person shall speak in the meeting, without first obtaining the leave of the moderator, nor when any other person is orderly speaking; and all persons shall be silent at the desire of the moderator, on pain of forfeiting one dollar, for the breach of every order, to the use of the town, and if any person after being notified by the moderator of such offence, or being out of order, shall persist in such disorderly conduct, the moderator shall order such person to withdraw from the meeting, and such offender upon his refusal or neglect to withdraw, shall forfeit and pay the sum of three dollars, to the use of such town, for each and every such offence, said forfeitures to be recovered by the Moderator to be first chosen.

No person to speak in the meeting without leave of the moderator.

Penalty for disobedience.

moderator, ſelectmen, town treaſurer or either of them, who ſhall proſecute the ſame before any juſtice of the peace in the ſame county, not an inhabitant of the ſame town to which the penalty is given.

Town officers to be choſen at the March meeting, to wit, Moderator, Town clerk, Select men, and overſeers of the poor, Town treaſurer, Liſters, Conſtables, Collectors, Grand jurors, Surveyors of highways Fence viewers, Pound keepers, Sealers of leather, weights and meaſures, Tything men, Haywards, Commit-

SEC. 3. *And it is hereby further enacted*, That it ſhall be the duty of the inhabitants of each town in this ſtate, reſpectively, at their annual meeting, duly warned and holden as aforeſaid by a majority of votes, to chooſe a moderator to govern ſaid meeting, (and the town clerk, or one of the ſelectmen ſhall preſide in ſuch meeting, until the moderator be choſen); they then ſhall proceed by a majority of votes, to chooſe a town clerk, or regiſter (who ſhall if preſent immediately take the oath of office, but if abſent a clerk *pro.tem.* ſhall be appointed by nomination and duly ſworn); three or more preſons, not exceeding five, to be ſelectmen, to ſuperintend the prudential affairs of the town, who are hereby made, and declared to be overſeers, of the poor of ſuch town, unleſs the town ſhall appoint other overſeers in their ſtead, which they are hereby empowered to do; a town treaſurer; three or more liſters not exceeding five; one or two conſtables; collectors of town rates or taxes; one or more grand jurors; ſurveyors of highways; fence viewers; one pound-keeper to each diſtrict in ſaid town; ſealers of leather, and ſealers of weights and meaſures; all of which officers ſhall be free-holders and inhabitants of ſaid town; alſo one or more tything men, and haywards, and every other officer which the laws of this ſtate may, or ſhall direct, and ſhall alſo appoint a committee of not leſs than three to audit, ſettle and adjuſt the account or accounts of the overſeer or overſeers of the poor, for the preceding year, with the overſeers of the poor for the time be-

ing, and report ſuch ſettlement to ſaid town, which ſhall be entered on record; and ſhall alſo choſe a committee to ſettle and adjuſt the accounts of the treaſurer annually and make report of the ſame, and of the ſtate of the treaſury, with the particular ſum or ſums of money due thereto or owing therefrom, which ſhall be entered on record; which ſettlement ſhall be made with the treaſurer, within fifteen days after the termination of his office; and the treaſurer going out of office, or whoſe office for the period for which he was elected has terminated, ſhall pay over to his ſucceſſor in office, all ſuch balance or ſums of money as ſhall appear to be in his hands, and due to ſuch town, or if the treaſurer ſhall be re-elected, he ſhall account to the town in the next ſettlement, for all ſuch monies as ſhall remain in his hands, agreeably to ſuch report, but if upon ſuch ſettlement, it ſhall appear that there is a balance due to ſuch treaſurer, the committee ſhall draw an order on the treaſurer, for the time being, for ſuch balance, who is hereby directed to pay the ſame out of the monies which may be collected, to defray the incidental charges of ſaid town, or if ſuch treaſurer be re-elected, they ſhall give him a writing, authoriſing him to credit himſelf ſuch ſum—And the treaſurer going out of office, ſhall deliver over to his ſucceſſor in office, all monies, and all the books of accounts and other documents and papers, belonging or relating to ſaid office, within one month after the termination of his office, on pain of forfeiting to ſaid town, a ſum not exceeding two hundred dollars, to be recovered by the town treaſurer for the time being, in any court of competent juriſdiction.

Committee to ſettle with the overſeers of the poor.

Committee to ſettle with the treaſurer.

Treaſurer to pay over monies, &c.

Balance due the treaſurer how paid

To deliver over monies, books and papers.

Penalty for neglect.

Treaſurer for the time being to recover againſt his predeceſſor.

SEC. 4. *And it is hereby further enacted*, That it ſhall and may be lawful for the town treaſurer, for the time being, of ſuch town, to recover againſt his predeceſſor in office, his executors or adminiſtrators, all ſuch ſum or ſums of money as ſhall appear due on ſuch ſettlement, in an action for monies had and received to the uſe of ſuch town, with coſts, in any court having cognizance of the ſame, or to have and maintain an action of account, againſt any former treaſurer, his executors or adminiſtrators—And no ſuch action ſhall be abated by the death, or expiration of the office, of any ſuch plaintiff or plaintiffs, but ſhall and may be continued until a ſucceſſor ſhall be appointed, who ſhall proſecute ſuch action to effect.

Suit not to abate.

Town officers to be choſen by ballot.

SEC. 5. *And it is hereby further enacted*, That the ſeveral officers aforeſaid ſhall be choſen by ballot or ſuch other method as the voters preſent ſhall agree upon—And the ſelectmen, conſtable, or conſtables, town clerk and ſuch magiſtrates of the town who may be preſent, ſhall agree upon ſuch number of judicious and diſcreet freeholders, to ſerve as grand jurors and petit jurors, as they ſhall judge will be the proportion of ſaid town, to attend the ſupreme court of judicature, and county courts, the year enſuing, which number ſhall be nominated by ſaid authority, and choſen by the inhabitants preſent; and it is hereby made the duty of the town clerk to write the names of the perſons ſo choſen on ſeperate pieces of paper, and put them into different boxes, to be kept in his office provided at the expence of the town, for that purpoſe.

Towns may agree with

SEC 6 *Provided nevertheleſs, and it is hereby further enacted*, That the inhabitants of any town ſhall have liberty to agree with ſome

suitable person, to fill the offices of first constable and collector, in such method as they shall judge most advantageous, who shall afterwards be chosen by the town, and the person with whom they shall agree, shall before he enters upon the duties of his office, execute a bond with sufficient sureties, to the selectmen of such town, for the time being, and their successors in office, *conditioned*, that the person so chosen, shall well and faithfully execute the offices of constable, and collector for said town, for the year ensuing, and that he shall at all times indemnify and save harmless such town, from all damages, costs or charges that may in any manner accrue to said town, from the default, latches or neglect of such constable and collector.

a person to fill the office of first constable and collector.

Person to give bond to the select. men.

SEC. 7. *And it is hereby further enacted*, That the inhabitants of every town in this state at their annual March meeting, may make such compensation to the selectmen, overseers of the poor, and other officers of their respective towns, and other persons by them respectively employed, as upon a particular statement of their time and services, they may judge just and reasonable.

Towns may make compensation to selectmen &c.

SEC. 8. *Provided nevertheless, and it is hereby further enacted*, That all matters and things which by any law of this state, are required to be done, at the annual meeting in the month of March, may be done at any adjournment of said meeting, in the month of April succeeding.

May transact at adjourned meetings in April such matters as are directed to be done in March.

SEC. 9. *And it is hereby further enacted*, That any town clerk, or any one of the selectmen, or any justice of the peace, be and they are hereby respectively empowered to administer the oath of office to any town officer.

Town-clerk, selectmen, or justice to administer the oath of office.

SEC. 10. *And it is hereby further enacted*, That it shall be the duty of the selectmen of

such town, forthwith after such choice, to see that every officer, chosen under this act, is duly sworn to a faithful discharge of his office, by some of the officers aforesaid; and the town clerk shall make a record of such officer's being chosen and sworn, and such officer shall continue in office the space of one year, or until the next annual meeting for the choice of town officers, or until others be chosen and sworn in their room, except in cases in which the law shall otherwise direct.

Select-men to see that the officers are duly sworn. Town clerks to make a record.

SEC. 11. *And it is hereby further enacted*, That when any person shall be chosen into either of the offices aforesaid, if such person be present, he shall be notified thereof, and called upon to take the oath of office, by either of the selectmen, the town clerk, or moderator, and such person shall immediately, in open meeting, declare his acceptance or refusal; and if any person chosen to either of the offices aforesaid shall be absent, the selectmen or either two of them, shall notify the person so chosen to appear within six days before the town clerk, for the time being, or one of the selectmen, and take the oath of office, which notice shall be served upon such person, by reading the same in his hearing, or by a copy left at his last and usual place of abode, which notification shall be as follows, namely:

Town officers to be notified of their appointment.

Form of notice.

"STATE of VERMONT,

"To A. B. constable of the town of in the county of

GREETING:

"Whereas C. D. of aforesaid, being chosen at a legal meeting of the inhabitants of said town, on the day of March to the office of You are therefore hereby required by the authority of the state of Vermont, to

notify him to appear before the town clerk for the time being, or one of the ſelectmen of ſaid town, within ſix days from the ſervice of this notification, and take the oath of office, and if he neglect, to be ſubject to the penalty directed by law.

" Herein fail not, and of your doings with this notification, make return to the town clerk of ſaid town, for the time being, within days.

" Given under our hands at this day of

" Selectmen."

And every perſon not by law exempted from ſerving in ſuch office, who is able in perſon to execute the ſame, ſhall after ſuch notice being given, in open town meeting as aforeſaid, refuſe or neglect for the ſpace of one hour to ſerve therein, or take the oath of office, and every perſon who ſhall refuſe or neglect as aforeſaid for the ſpace of ſix days, after the ſervice of ſuch notification as aforeſaid, or for the ſpace of ſix days after he ſhall have returned to his dwelling-houſe, in caſe he was abſent out of town at the time of ſervice of ſuch notification, to appear and accept ſuch office, and take ſuch oath; and in caſe the ſame is taken before any perſon other than the town clerk, to file a certificate of his having ſo taken it, with the town-clerk, ſhall forfeit and pay a fine not exceeding thirteen dollars, to the treaſurer of the town, who is hereby empowered to ſue for and recover the ſame, by action of debt. Penalty for not taking the oath.

Provided nevertheleſs, That if the perſon who ſhall refuſe or neglect to accept of ſuch office, or take the oath as aforeſaid, ſhall make

it appear to the juſtice of the peace, before whom the caſe ſhall be tried for the recovery of ſuch fine, that he is unreaſonably oppreſſed by ſuch choice, or that others are unjuſtly exempted, the plaintiff in ſuch action ſhall become nonſuit, and the defendant go thereof without day. And every conſtable ſhall within ten days after the receipt of ſuch notification, return the ſame with his doings thereon, to the town clerk of ſuch town, for the time being; and every conſtable neglecting his duty in any of the particulars aforeſaid, ſhall forfeit and pay a fine, not exceeding five dollars, to the treaſurer of ſuch town, to be recovered as aforeſaid.

Conſtables neglecting his duty; penalty for.

Unorganized towns having twenty families to organize, Penalty for neglect.

SEC. 12. *And it is hereby further enacted*, That it ſhall be the duty of the inhabitants of every unorganized town, as ſoon as there ſhall be twenty families therein, to organize and chuſe town officers, and if the inhabitants of any town in this ſtate, having twenty families therein, ſhall neglect or refuſe within one year, to organize and chuſe all, or either of the officers by this act directed to be choſen, in the month of March annually, the inhabitants of ſuch town, ſhall forfeit and pay to the treaſury of this ſtate, a ſum not exceeding one hundred and fifty dollars, to be recovered with coſts of proſecution in the name of the treaſurer of this ſtate, by action of debt brought on this ſtatute.

Vacancy in town offices how filled.

SEC. 13. *And it is hereby further enacted*, That when there ſhall be a vacancy in any town office, by reaſon of the death of any town officer, or by reaſon of the non-acceptance of any perſon choſen into any ſuch office, or by reaſon of the removal of any ſuch officer, or by reaſon of any perſon becoming *non compos mentis*, or otherwiſe incapacitated in the judgment of the ſelectmen and civil authority of

ſuch town, or when there ſhall be a vacancy in any other way, or when there ſhall be a want of any town officer or officers, the inhabitants of ſuch town at any legal meeting, duly warned by the ſelectmen, and holden in ſuch town, or at the adjournment of the annual meeting, may proceed to fill up ſuch vacancies, and to chuſe ſuch officer or officers, as may be wanting; and the officer or officers ſo choſen and ſworn, ſhall have the ſame power and authority, as though choſen at the annual meeting for the choice of town officers; and in every ſuch caſe the perſon filling ſuch vacancy, is authoriſed to take up the buſineſs appertaining to his office, where his immediate predeceſſor in office left it, and to proceed to the full execution and diſcharge of the ſame, as fully to all intents and purpoſes, as the officers firſt choſen into ſaid office, that year could or might have done. And all officers, choſen at ſaid meetings, ſhall be liable to the ſame penalties and forfeitures for not accepting, or not taking the oath of office, and for every neglect of duty in their reſpective offices as though ſuch officers were or had been choſen at the annual meeting for the choice of town officers.

Towns empowered to raiſe money by tax on inhabitants for certain purpoſes.

SEC. 14. *And it is hereby further enacted*, That the inhabitants of each town in this ſtate, qualified to vote as aforeſaid, at any meeting duly and legally warned and holden in ſuch town, may grant and vote ſuch ſum or ſums of money as they ſhall judge neceſſary, for the maintenance of the poor, for laying out and repairing highways, for building and repairing bridges, and for all other neceſſary and incidental charges within ſaid town, to be aſſeſſed on the polls and rateable eſtates in the ſame town, as the law directs. And alſo to grant or vote any ſum or ſums of money to

profecute and defend their common rights and intereſts, to be aſſeſſed as aforeſaid.

Selectmen to warn town meetings on application of four freeholders.

SEC. 15. *And it is hereby further enacted*, That when there ſhall be occaſion for a town meeting, at any time other than the month of March, the ſelectmen (or a juſtice of the peace of the ſame county in caſe there be no ſelectmen) upon the application of four credible freeholders and inhabitants of ſuch town, in writing, ſpecifying the purpoſes for which they wiſh ſuch meeting to be called, ſhall ſet up a notification as before directed in this act, warning all the free-holders, and other inhabitants qualified to vote as aforeſaid, to meet at the time and place therein mentioned; and the ſaid ſelectmen, or juſtice of the peace, ſhall in ſuch notification, inſert the intent and deſign of ſuch meeting, and the ſubject matter of all buſineſs to be conſidered and tranſacted at ſaid meeting, and no other buſineſs tranſacted at ſuch meeting, ſhall be good and valid in law, unleſs the ſubject matter thereof ſhall have been inſerted in ſuch notification. And all warnings and notifications for town meetings, ſhall be recorded at length by the ſeveral town clerks.

Deſign and ſubject matter of the meeting to be inſerted in the warning.

Warnings for town meeting to be recorded.

Select. men may call a meeting without application at their diſcretion.

SEC. 16. *And it is hereby further enacted*, That the ſelectmen ſhall have diſcretionary power to call a town-meeting, when in their opinion the intereſt of the town may require it, obſerving in all things the mode of notifying and ſubject matter to be tranſacted, as before directed in this act.

Pariſhes and diſtricts incorporated conſidered as towns.

SEC. 17. *And it is hereby further enacted*, That all places incorporated by the names of pariſhes, diſtricts, or other places with town privileges, are hereby declared to be towns, in the purview of this act, and are entitled to all the privileges, and veſted with all the powers, and liable to all the penalties, to which

towns by this act are entitled, or which such towns are vested with, or to which they are liable.

Doings of the majority of the selectmen &c. valid.

SEC. 18. *And it is hereby further enacted*, That all the acts and doings of the major part of the selectmen, overseers of the poor, listers and fence viewers of any town, parish, district or other place, shall be as good and valid in law, as though executed by the whole.

First constables to be collectors of state and other taxes.

SEC. 19. *And it is hereby further enacted*, That the first constable chosen annually, in each town, is fully authorised and empowered and it is hereby made his duty, to levy and collect all the state and other taxes required by law, and account therefor with the several treasurers to whom the taxes respectively shall be made payable, agreeably to his warrants.

Town clerks to provide books for records at the expence of the town.

SEC. 20. *And it is hereby further enacted*, That a book or books, with an index or alphabet to the same, suitable for registering deeds and other evidences respecting titles to lands, and a book or books for recording the proceedings of town meetings, and for recording such other acts and things as is, or are by law directed or required, shall be kept in each town in this state; which books shall be provided by the clerk at the expence of such town; and it is hereby made the duty of the town clerk or register, truly to record all deeds and conveyances, of any houses, lands or tenements, and all writs and executions, when by law it becomes necessary.

Town clerks to record deeds &c.

And it is hereby further made the duty of each town clerk in this state, to keep such books within his respective town, and to record all the votes, doings and proceedings of any town meeting, under his oath of office, during the time he officiates as such, and also make a record of the names of such persons as

shall be duly sworn into any town office, and also to furnish copies from his files and records, for a reasonable compensation; and his attestations shall be a sufficient authentication of such copies. And if any clerk shall neglect or refuse to record any deed or conveyance, delivered to him to record as aforesaid, or any writ, or execution, or other matter or thing to be by him recorded; or shall refuse to give any copy of any record in his possession, or shall on proper request, refuse to show any record or file in his office, the clerk so neglecting or refusing in any of the cases aforesaid, shall forfeit and pay for every such neglect or refusal, a sum not exceeding twenty dollars, one moiety of which shall belong to the treasury of the town, and the other moiety to any person who shall sue for the same, before any court having cognizance thereof, together with costs of suit; and shall also be further liable for all damages to the party injured, to be recovered by action on the case founded on this statute.

Penalty for neglecting or refusing to record or give copies of any deed, &c.

SEC. 21. *And it is hereby further enacted*, That the several town clerks in this state shall deliver, or cause to be delivered, to the treasurer of this state, and to the treasurer of the county in which such town shall be situated, certificates of the names of the first constables in their respective towns, and also to the county treasurer a certificate of the sum total of the grand list of their respective towns, at or before the rising of the next session of the Legislature after such constables shall have been chosen, or forfeit and pay a sum not exceeding fifty dollars, nor less than five dollars, to the treasury of the state, if he neglects to return such certificate to the state treasurer, or to the treasury of the county if he neglects to return such certificate to the county treasurer, to be

Town clerks to furnish the state and county treasurer with the names of the first constable and the amount of grand list

recovered with coſts by the reſpective treaſurers, to the uſe of the reſpective treaſuries to which ſuch forfeitures inure, by an action of debt brought on this ſtatute, in their own names reſpectively. Penalty for neglect.

SEC. 22. *And it is hereby further enacted*, That it ſhall be the duty of every town clerk, or regiſter to record all births and deaths in his reſpective town, and all parents and maſters ſhall furniſh the clerk of the town to which they reſpectively belong, with the names of ſuch perſons as ſhall have been born, or ſhall have died while under their charge or care, and the day of ſuch perſons' birth or death. And it ſhall alſo be the duty of executors, and adminiſtrators, to preſent to the town clerk for record, the name of the deceaſed to whoſe eſtate they are executors or adminiſtrators, and every perſon who ſhall neglect for one month, after ſuch birth or death, ſhall forfeit and pay a fine not exceeding one dollar for each month's neglect. And the clerk of every town ſhall as far as he is able, inform the grand jurors of ſuch town, of all ſuch neglects, who ſhall make preſentment thereof to ſome juſtice of the peace, which forfeitures ſhall be paid into the town treaſury.

Town clerks to record births and deaths. Parents and maſters to furniſh the names of births and deaths. Penalty for neglect. Town clerks to inform grandjurors of ſuch neglect.

SEC. 23. *And it is hereby further enacted*, That when any town ſhall chuſe a new town clerk, it ſhall be his duty to wait on the former clerk of ſuch town, as ſoon as may be, after his appointment, and demand all the records, files and papers belonging to ſuch town clerk's office, and if ſuch town clerk ſhall refuſe or neglect to deliver over ſuch records, files and papers, after demand as aforeſaid, he ſhall forfeit and pay to the treaſurer of ſuch town fifteen dollars for every week's neglect, after the ſame has been demanded, to be recovered before any court proper to try the

New town clerk to wait on former to demand records, files, &c. Town clerks neglecting to deliver over, penalty for.

ſame, on the complaint of any informing officer of ſaid town.

Select-men to aſſeſs ſtate and other taxes according to law.

SEC. 24. *And it is hereby further enacted*, That the ſelectmen of the ſeveral towns in this ſtate, be, and they are hereby authoriſed, empowered and required, ſeaſonably to aſſeſs the polls and rateable eſtates within ſuch towns, according to the rules and directions of law, their juſt and equal proportion of all ſtate, county, town and other taxes, which they may by any law of this ſtate be authoriſed, empowered or required to aſſeſs.

Select-men to maintain and keep in repair ſign poſts.

SEC. 25. *And it is hereby further enacted*, That the ſelectmen of the ſeveral towns, diſtricts, or pariſhes in this ſtate, ſhall make or cauſe to be made and maintained in good and ſufficient repair, a ſuitable ſign poſt in their reſpective towns, diſtricts or pariſhes, which ſhall be at leaſt eight feet high, and ſo conſtructed as to preſerve the warrants for town and other meetings, notifications and other writings of notice, which may be poſted and ſet up on the ſame, purſuant to the direction of law, from being deſtroyed, or effaced by wind or weather; the expence of which ſhall be paid out of the treaſury of ſuch towns, diſtricts, or pariſhes reſpectively; and if any town, diſtrict or pariſh, ſhall not be furniſhed with ſuch ſign-poſt, for the ſpace of three months after the paſſing of this act, the ſelectmen of ſuch town, diſtrict, or pariſh ſhall forfeit, and pay the ſum of three dollars, for every month ſuch town, diſtrict or pariſh ſhall be ſo deficient, to be recovered with coſts, by any perſon who ſhall ſue for and proſecute the ſame to effect, one moiety to the uſe of the treaſury of ſuch town, diſtrict or pariſh, and the other moiety to the proſecutor.

Penalty for neglect.

SEC. 26. *And it is hereby further enacted*, That if any perſon or perſons ſhall wantonly

and wilfully pull down, efface or deſtroy, any warrant, notification, or other writing of notice, poſted or ſet up on the ſign-poſts as aforeſaid, or procure the ſame to be done, he, ſhe, or they ſo offending, ſhall forfeit and pay the ſum of five dollars, to be recovered with coſts, as is provided for the recovery of penalties againſt ſelectmen, in the laſt preceding ſection, and alſo be further liable to the perſon or perſons aggrieved thereby, for all juſt damages, in an action of the caſe founded on this ſtatute.

Penalty for pulling down deſtroying or defacing warrants, notifications, &c.

SEC. 27. *And it is hereby further enacted*, That for the accommodation of travellers through this ſtate, there ſhall be erected, at the interſection of all public roads and highways within each town, diſtrict or pariſh, throughout this ſtate, a monument, or poſt-guide at leaſt eight feet high, which ſhall conſiſt of materials of ſuch angular form, as ſhall correſpond with the angle made by the interſection of the roads as aforeſaid, as near as may be, and on each poſt guide to be erected as aforeſaid, or on the appendages thereof, ſhall be engraved, written, or painted in legible characters, the name of the next adjoining town and towns to which ſuch roads reſpectively lead; as alſo the names of ſuch other towns as may be thought proper, with the eſtimated number of miles to all ſuch towns reſpectively, in figures; and an hand and finger ſhall be painted on the left of ſuch letters, as direct to a right hand road, and on the right of ſuch letters as direct to a left hand road; and the number of miles ſo to be engraved or painted, ſhall be underſtood to be the diſtance to the moſt public place of reſort within the town, againſt which ſuch figures ſhall be made.

Towns to furniſh and keep in repair guide poſts.

Selectmen to superintend the erecting and keeping in repair guide posts.

SEC. 28. *And it is hereby further enacted*, That the selectmen of the respective towns and places, to which they respectively belong, shall superintend the erecting and keeping in repair, all such post-guides, at the expence of the towns respectively.

Provided, That the inhabitants of the towns, districts or parishes respectively, duly qualified to vote in town affairs, may if they chuse, on or before the first day of June next, and annually afterwards, determine of what materials the said post-guides shall consist, and appoint suitable persons to superintend the erecting and repairing of the same.

Penalty for neglect,

SEC. 29. *And it is hereby further enacted*, That if the selectmen or other persons, who may be appointed to superintend the erecting and repairing of post guides as aforesaid, shall neglect their duty as herein prescribed, for the space of twelve months from and after the passing of this act, shall forfeit and pay the sum of five dollars, and the like penalty for every four months' neglect after the expiration of said twelve months, to be recovered with costs, by any person who shall sue for and prosecute the same to effect.

Selectmen and civil authority to abate taxes.

SEC 30. *And it is hereby further enacted*, That the authority and selectmen of each town in this state, be and they are hereby authorised and empowered, to abate any part or all of any rate or tax, which has been or which may hereafter be assessed, on any person or persons inhabitants of any such town, in which such authority and selectmen reside, as may have died insolvent, removed out of the state, or otherwise become unable to pay the same, or where it shall appear to such authority and selectmen such rate or tax was not lost through the negligence, or inattention of such constable or collector ; and the authority and select-

men ſhall take an account of the rates ſo abated, and the conſtable or collector ſhall in preſence of ſuch authority, endorſe the rates ſo abated, either in whole or in part, and the perſons from whom ſuch ſums ſo abated were payable, ſhall thenceforth be diſcharged, according to the abatement ſo made.

Sum abated not to exceed one twentieth part

Provided always, That the ſum or ſums abated in any town, ſhall not exceed one twentieth part of ſuch rate or tax.

State and county treaſurers to credit the collectors one twentieth part of taxes.

SEC. 31. *And it is hereby further enacted*, That the treaſurer of this ſtate, and the reſpective county treaſurers, be and they hereby are directed to credit the ſeveral conſtables or collectors, one twentieth part of the whole ſum or ſums contained in the warrants by them iſſued, to each and every ſuch conſtable or collector, on a ſettlement, and that ſuch conſtables or collectors reſpectively, ſhall be accountable to their reſpective towns, for ſo much of ſuch twentieth part ſo by the ſaid treaſurers credited, as is not allowed by way of abatement, to ſuch conſtable or collector.

SEC. 32. *And it is hereby further enacted*, That the inhabitants of every town in this ſtate, at their annual March meetings, be and they are hereby authoriſed and empowered, to make ſuch bye laws and regulations reſpecting horſes, mules, and all horſe kind, ſwine and ſheep running at large, on the commons and high-ways, within the limits of their ſeveral towns, as they ſhall judge moſt expedient; and alſo to make ſuch bye laws and regulations to reſtrain rams from running at large as aforeſaid, at certain ſeaſons of the year, as in their opinion will beſt promote the increaſe and improve the breed of ſheep, any law, uſage or cuſtom to the contrary notwithſtanding.

Paſſed February 28, 1797.

CHAPTER XX.

An ACT *authoriſing the inhabitants of* towns *and other* corporations *to maintain and defend ſuits at law, and directing the mode of proceeding therein.*

Inhabitants of towns declared a body politic and may ſue and be ſued.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont,* That the inhabitants of every town, diſtrict, pariſh or ſociety, within this ſtate, are hereby declared to be a body politic and corporate, and as ſuch by the name of their incorporation, may ſue, and be ſued, and may proſecute or defend, any action or ſuit, in any proper court in this ſtate, and ſuch towns, diſtricts, pariſhes and ſocieties may, at any legal meeting, duly warned and holden in ſuch town, chuſe an agent or agents, attorney or attornies, for the purpoſes aforeſaid, and a certificate of ſuch appointment, ſigned by their clerk, ſhall be deemed ſufficient evidence thereof.

May chuſe an agent or attorney.

Truſtees of colleges and proprietors of common land, &c. may ſue and defend.

SEC. 2. *And it is hereby further enacted,* That all truſtees of colleges, academies, ſchools and proprietors of common and undivided lands, grants and other eſtates, or intereſt, be, and hereby are empowered, to ſue, proſecute and defend, any action relating to their reſpective truſts, and intereſts, and to appoint an agent or agents, attorney or attornies to appear for them and in their behalf.

How and where writs in ſuch caſes to be ſerved.

SEC. 3. *And it is hereby further enacted,* That when any town, body politic or corporate, or the proprietors of any common and undivided lands, truſtees for ſchools, academies, or colleges are ſued, an atteſted copy of the writ, ſhall be delivered to the clerk of ſuch town, body politic or corporate, or proprietors of common and undivided lands, or truſtees, or to one of the principal inhabitants

or members, thirty days before the ſitting of the court, to which the ſame is returnable, or left the like number of days, before the ſitting of ſaid court, at his laſt and uſual place of abode.

Counties may ſue and be ſued.

SEC. 4. *And it is hereby further enacted*, That ſuits may be brought and maintained, by and againſt the inhabitants of the ſeveral counties in this ſtate, and the inhabitants of ſuch counties, reſpectively, may proſecute and defend the ſame by their agent or attorney, which agent or attorney the judges of the county court, in the ſeveral counties ſhall have power to appoint. And when any ſuit ſhall be brought againſt the inhabitants of any county, the ſame ſhall be ſerved on the ſtate's attorney for ſuch county, or if ſuch attorney be intereſted or engaged for the plaintiff, on the treaſurer, or ſheriff of ſuch county, in the ſame manner as is before directed in this act.

Writs how ſerved.

Execution how to iſſue and be collected.

SEC. 5. *And it is hereby further enacted*, That when judgment ſhall be rendered againſt any town, diſtrict, pariſh or ſociety, execution ſhall iſſue againſt the goods or chattels of the inhabitants of ſuch town, diſtrict, pariſh or ſociety, and may be levied and collected of the ſame; and the perſon or perſons whoſe goods or chattels ſhall be taken, to ſatisfy ſuch execution, is or are hereby authoriſed and empowered, immediately to warn a meeting of the inhabitants of ſuch town, diſtrict, pariſh or ſociety, which warning ſhall be poſted in the ſame manner as is directed by law, for the purpoſe of granting taxes on ſuch town, diſtrict, pariſh or ſociety, and the inhabitants of ſuch town diſtrict pariſh or ſociety, ſhall grant and levy a tax ſufficient to pay the debt or damages and coſts, for which ſuch goods or chattels were taken, which tax ſhall be collected by the conſtable or collector of ſuch

town, diſtrict, pariſh or ſociety, or ſuch other collector as ſhall for that purpoſe be appointed, by a certain time to be prefixed—And the treaſurer of ſuch town, diſtrict, pariſh or ſociety is hereby directed and required to pay the perſon or perſons whoſe goods or chattels, have been taken, the ſum or ſums for which they were taken, immediately upon the collection of the ſame, with twelve per cent. intereſt *per annum*; and if the inhabitants of ſuch town, diſtrict, pariſh or ſociety ſhall upon ſuch warning, neglect or refuſe to levy and collect a tax as aforeſaid, and to cauſe the ſame to be paid as aforeſaid, the perſon or perſons, whoſe goods and chattels ſhall be taken in manner aforeſaid ſhall each have a ſeveral right of action, againſt ſuch town, diſtrict, pariſh or ſociety to recover the ſum or ſums by him, her or them reſpectively paid, all incidental charges, and reaſonable damages, together with twelve per cent intereſt, and double coſts; and execution may iſſue for the ſame, as is before directed in this act.

Executions againſt truſtees of ſchools, &c. how iſſued and collected.

SEC. 6. *And it is hereby further enacted*, That when judgment ſhall be rendered againſt the truſtees of colleges, academies, ſchools and proprietors of common or undivided lands, eſtates or intereſts, execution ſhall be iſſued againſt the goods and chattels of ſuch truſtees and proprietors, and be levied of the ſame, as before directed in this act.

Executions againſt counties how iſſued and collected.

SEC. 7. *And it is hereby further enacted*, That when judgment ſhall be rendered againſt the inhabitants of any county, execution ſhall iſſue againſt the goods and chattels of the inhabitants thereof, and the officer to whom ſuch execution ſhall be delivered, ſhall, before he proceed to levy the ſame, call on the treaſurer of ſuch county, for the payment thereof, and ſaid treaſurer is hereby directed to pay the ſame, out of the public monies of ſuch

county, if there be ſufficient monies in the treaſury; and if there be not ſufficient monies, to pay ſuch part therof as he may have on hand; and if the ſaid treaſurer ſhall not pay the whole amount of the execution, with the legal coſt thereon, the ſaid officer ſhall then proceed to levy and collect the ſame, or ſuch part as ſhall remain due thereon of any of the inhabitants of ſaid county.

Provided always, That the ſaid officer ſhall in no inſtance, levy or collect of any one individual, a greater ſum than one hundred and fifty dollars, nor a leſs ſum than twenty dollars, if the execution ſhall exceed the latter ſum, unleſs it be to ſatisfy the balance of ſuch execution, with the legal coſts thereon; and the ſaid officer ſhall deliver to the perſon or perſons from whom he ſhall receive any part of ſuch execution, a certificate, ſpecifying the particular ſums, he may ſo receive. And if there ſhall not be a tax aſſeſſed upon the ſaid county, ſufficient when paid, above the other neceſſary appropriations of the county, to repay the amount of ſaid execution, with the incidental charges, it ſhall be the duty of the treaſurer of ſuch county, with the advice of the judges of the county court, immediately to iſſue his warrants to the firſt conſtables of the ſeveral towns and diſtricts in ſaid county, directing them to collect of the inhabitants and perſons, having rateable property in ſuch towns, on the liſt of the polls and rateable eſtates thereof, a tax ſufficient to pay the amount of ſuch certificates, with twele per cent. intereſt, and other incidental charges, within ſuch time, as ſhall therein be mentioned. And in caſe the money be not collected within one year from the date of ſuch certificates, the o-

riginal holders thereof ſhall have and maintain an action thereof againſt the county.

Paſſed March 2, 1797.

CHAPTER XXI.

An ACT *regulating the conveyances of* real eſtates, *and for the prevention of* frauds *therein.*

WHEREAS it is neceſſary to prevent uncertainty, fraud and perjury in transferring real eſtates, that a mode therefor ſhould be eſtabliſhed, eaſy, certain and notorious :— Therefore,

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That all leaſes, eſtates, intereſts of freeholds or term of years, or any uncertain intereſt of, in, or out of any meſſuages, lands, tenements or hereditaments, made and created by livery and ſeiſin only, or by parole, and not in writing, ſigned by the parties ſo making or creating the ſame, or by their agents, thereunto lawfully authoriſed by writing, ſhall have the force and effect of leaſes, or eſtates at will only, and ſhall not either in law or equity, be deemed or taken to have any other, or greater force, any conſideration for making any parole, leaſes or eſtates notwithſtanding.

Conveyances created by livery and ſeiſin only or by parole to have the force and effect of eſtates at will.

SEC. 2. *And it is hereby further enacted*, That no leaſes, eſtates or intereſts, either of freehold or term of years, or any uncertain intereſt of, in, or out of meſſuages, lands, tenements, or hereditaments, ſhall be aſſigned, granted or ſurrendered, unleſs by deed or note in writing, ſigned by the party ſo aſſigning, granting or ſurrendering, or their agents, thereunto lawfully authoriſed and empowered by writing, or by act or operation of law.

Eſtates not aſſignable unleſs by deed or note in writing.

SEC. 3. *And it is hereby further enacted*, That all grants and aſſignments, and all declarations and creations of truſts, or confidences of any lands, tenements, or hereditaments, ſhall be manifeſted and proved by ſome writing, ſigned by the party, who is by law enabled to declare ſuch truſt or by his laſt will in writing, or elſe they ſhall be utterly void and of no effect. Eſtates in truſt, created by writing or laſt will.

Provided always, and it is hereby further enacted, That if any conveyance ſhall be made, of any lands, tenements or hereditaments, by which a truſt or confidence ſhall ariſe, or reſult, by the implication or conſtruction of law, to be transferred or extinguiſhed by an act, or operation of law, in every ſuch caſe ſuch truſt or confidence, ſhall be of like force and effect, as the ſame would have been, if this act had not been made, any thing therein contained to the contrary notwithſtanding.

SEC. 4. *And it is hereby further enacted*, That no action ſhall be maintained upon any agreement, hereafter to be made, for the ſale of lands, tenements or hereditaments, or any intereſt therein, or concerning them, unleſs the agreement upon which ſuch action ſhall be brought, or ſome memorandum thereof in writing, and ſigned by the parties to be charged therewith, or ſigned by ſome other perſon thereunto lawfully authoriſed by writing. Contracts for real eſtates to be in writing.

SEC. 5. *And it is hereby further enacted*, That all deeds or other conveyances, of any lands, tenements, or hereditaments, lying in this ſtate, ſigned and ſealed by the party granting the ſame, having good and lawful authority thereunto, and ſigned by two or more witneſſes, and acknowledged by ſuch grantor or grantors, before a juſtice of the peace, and record- Deeds, mode of conveyance by, how executed. Muſt be ſigned, ſealed, witneſſed acknowl-

edged and recorded in the town clerk's office.

ed at length in the clerk's office of the town, in which ſuch lands, tenements and hereditaments lie, ſhall be valid to paſs the ſame, without any other act or ceremony in law whatever; and no deed of bargain and ſale, mortgage or other conveyance, in fee ſimple, fee-tail, or for term of life, or any leaſe for more than one year from the making thereof, of any lands, tenements or hereditaments in this ſtate, ſhall be good and effectual in law to hold ſuch lands tenements and hereditaments, againſt any other perſon or perſons, but the grantor or grantors, and their heirs only, unleſs the deed or deeds thereof be acknowledged and recorded in manner aforeſaid.

Where no town clerks, deeds to be recorded in county clerk's office.

Provided always, and it is hereby further enacted, That all ſuch deeds and conveyances of lands, tenements or hereditaments, lying in any town or place in this ſtate, in which there ſhall be no town clerk, ſhall be recorded by the clerk of the county court, in the ſame county, in which the lands, tenements or hereditaments as aforeſaid ſhall lie, in a book to be by him kept for that purpoſe; and ſuch deeds and conveyances ſo recorded, ſhall be of the ſame validity, as deeds and conveyances herein before directed to be recorded in the town clerk's office.

Deeds may be recorded in county clerk's office in addition to the town record.

SEC. 6. *And it is hereby further enacted*, That any purchaſer or purchaſers of any lands, tenements or hereditaments, within this ſtate, may, in addition to the record herein before directed to be made, cauſe his, her or their deed or deeds, conveyance or conveyances, to be recorded by the clerk of the county court, in the ſame county, in which ſuch lands, tenements or hereditaments lie, in his book kept for the purpoſe of recording deeds, and in caſe the record of any town, in which ſuch deed or deeds, conveyance or conveyances, ſhall

have been recorded as aforesaid, shall be destroyed, then an attested copy of such deed or deeds, conveyance or conveyances, produced from the office of the clerk of the county court, shall be allowed as authentic as copies from the town clerk's office.

Provided nevertheless, and it is hereby further enacted, That when any grantor or lessor shall go beyond sea, remove or abscond from this state, or be dead, before the deed or conveyance by him or her signed, be acknowledged as aforesaid, in every such case, the proof of such deed or conveyance, by the oath of one or more of the witnesses, whose names may be thereunto subscribed, made before any councillor, judge of the supreme or county court in this state, shall be equivalent to the grantor's acknowledgment thereof, before a justice of the peace. And when the grantor or lessor, and all the witnesses to any such deed or conveyance shall die, remove out of this state, or be beyond sea, before the same be duly acknowledged as aforesaid, the proof of such deed or conveyance, may be made before any supreme or county court in this state, by proving the hand writing of the grantor or lessor, or witnesses, or adducing other evidence to the satisfaction of such court, and such evidence being entered on the back of such deed or conveyance, or being annexed thereto, shall be equivalent to the grantor or lessor's acknowledgment, before a justice of the peace.

How to be proved when the grantor is beyond sea, &c.

SEC. 7. *And it is hereby further enacted*, That if any grantor or lessor of any lands, tenements or hereditaments, refuse to acknowledge any deed of bargain and sale, mortgage, or other conveyances, as aforesaid, by him or her signed, it shall be lawful for such grantee or lessee to put the same on record, without any acknowledgment, and such deed or con-

Or refuses to acknowledge.

veyance ſo recorded in the proper office, for recording the ſame, ſhall be deemed ſufficient caution to all perſons againſt purchaſing, attaching, levying or extending execution on the ſame land, for the ſpace of ſixty days, from the time of recording, and from thence until a final determination ſhall be had on the proceſs, to be by the ſaid grantee or leſſee, commenced as is herein after directed, againſt the ſaid grantor or leſſor, to compel an acknowledgment thereof, and ſuch deed or conveyance during that time ſhall be good and effectual in law, to all intents and purpoſes, as though the ſame were duly acknowledged.—And any juſtice of the peace, after ſuch refuſal, at the requeſt of the grantee or leſſee, his heirs, executors, adminiſtrators or aſſigns, may iſſue a ſummons for ſuch grantor or leſſor, to appear before him, at a certain time and place in ſaid ſummons mentioned, to hear the teſtimony of the ſubſcribing witneſſes to ſaid deed, or other conveyance, and upon return made to the ſaid juſtice, written on an atteſted copy of ſaid ſummons, and ſigned by any ſheriff, deputy ſheriff or conſtable, that the original was delivered to the perſon to be ſummoned, or left as his uſual place of abode, at leaſt ſeven days before the day appointed for examining the witneſſes to the ſaid deed, or other conveyance as aforeſaid, the ſaid juſtice may proceed in all caſes, when, from the return of the officer it appears that ſuch ſummons was delivered to the ſaid grantor or leſſor, whether the ſaid grantor or leſſor ſhall attend the examination, or not, to take the proof of the execution of ſuch deed, or other conveyance, and if one or more of the ſubſcribing witneſſes to ſuch deed, or other conveyance, ſhall make ſolemn oath before ſuch juſtice, that he, ſhe or they, ſaw the ſaid grantor or leſſor, voluntarily, ſign and ſeal the ſaid deed, or other

conveyance, and that he, ſhe or they ſubſcribed his, her or their names as witneſſes thereto at the ſame time, and ſuch proof, and a certificate thereof under the hand of the ſaid juſtice, on the back of ſuch deed or other conveyance, or annexed thereto, wherein the preſence or abſence of ſuch grantor or leſſor at ſuch examination ſhall be particularly noted, ſhall be equivalent to the acknowledgment of the grantor or leſſor, before any juſtice of the peace. But in all caſes when ſuch ſummons ſhall have been left at the uſual place of abode of the ſaid grantor or leſſor, and it does not appear that actual notice has been given, it ſhall be the duty of the ſaid juſtice to continue ſuch proceſs, from time to time, not exceeding ſixty days, as he ſhall judge proper, and direct that actual notice, if the party reſide within this ſtate be given, and in caſe no ſuch notice can be given, the juſtice ſhall proceed in the examination, and the ſame doings had therein, in all things, as before directed in this act, ſhall be equivalent to the acknowledgment of the grantor or leſſor before any juſtice of the peace.

Provided always, and it is hereby further enacted, That if either party be aggrieved, at the determination of the ſaid juſtice, he ſhall have liberty, at any time within twenty-four hours, to appeal therefrom, to the next county court in the ſame county; the party claiming the appeal, firſt becoming recognized, with ſufficient ſurety, in ſuch ſum as the ſaid juſtice ſhall direct, to the adverſe party, to proſecute his appeal to effect, as is by law directed in civil cauſes. And the ſaid juſtice and county courts, reſpectively, ſhall award coſts to the party in whoſe favor the final determination ſhall be made, and iſſue execution accordingly.

SEC. 8. *And it is hereby further enacted*, That when any perſon or perſons ſhall have ſold and conveyed, or ſhall hereafter ſell and convey, any lands, tenements, or hereditaments within this ſtate, and ſhall have neglected to procure his, her or their title deed or deeds to be recorded, in the office for that purpoſe appointed by law, he, ſhe or they, ſhall, within ſix months after requeſt made in writing by any ſubſequent purchaſer, of the ſame lands, tenements or hereditaments, whoſe right or title is liable to be affected by ſuch neglect, cauſe ſuch title deed or deeds to be recorded, in the proper office or offices. And if any perſon or perſons, after being requeſted as aforeſaid, and after the time aforeſaid, ſhall not have procured his, her or their deed or deeds, to be recorded as aforeſaid, any juſtice of the peace on the complaint of the party, whoſe right or title is liable to be affected as aforeſaid, ſhall have power to iſſue his warrant, to bring ſuch perſon or perſons immediately before him, to be examined in the premiſes.—And if ſuch perſon or perſons do not ſhow ſufficient cauſe, why he, ſhe or they have not procured his, her or their deed or deeds to be recorded as aforeſaid, the ſaid juſtice ſhall commit ſuch perſon or perſons, ſo neglecting, to gaol, there to remain until he, ſhe or they do procure ſaid deed or deeds to be recorded as aforeſaid, and pay the coſts of the complaint and commitment. And the perſon or perſons who ſhall have ſo neglected, ſhall be further liable to the party, whoſe right or title ſhall or may be affected, for juſt damages, in an action of the caſe, brought for that purpoſe, any law, uſage or cuſtom to the contrary notwithſtanding.

How to be execu-

SEC. 9. *And it is hereby further enacted*, That when any deed of bargain and ſale, mortgage or other conveyance of any lands, tene-

ments or hereditaments ſhall be made, by virtue of any power of attorney or inſtrument, authoriſing any perſon to execute ſuch deed or other conveyance, the ſaid power or inſtrument, being recorded in the office, where the deed, made by virtue thereof by law, ſhould be recorded, ſuch power having been ſigned, ſealed, and acknowledged before a juſtice of the peace, by the party having lawful right to make the ſame, a copy thereof from the records ſhall be read in evidence, when the original cannot be produced in the ſame manner as the copy of the deed made thereby is admitted in evidence.

ted by power of attorney.

SEC. 10. *And it is hereby further enacted*, That all deeds of bargain and ſale, mortgage, or other conveyance of real eſtate, heretofore made and executed according to former laws and uſages within this ſtate, ſhall be valid and effectual.

Executed according to former laws, valid.

SEC. 11. *And it is hereby further enacted*, That any mortgagee of lands, tenements or hereditaments, his or her heirs, executors, adminiſtrators or aſſigns, having received full ſatisfaction of the mortgage-money, ſhall, at the requeſt and coſt of the mortgager, his or her heirs, executors, adminiſtrators or aſſigns, acknowledge payment thereof, and cauſe ſuch acknowledgment to be entered on the margin of the record of ſuch mortgage, and ſign the ſame, which ſhall thereafter diſcharge ſuch mortgage and record, and perpetually bar all actions to be brought thereupon, in any court of record. And if ſuch mortgagee, his or her heirs, executors, adminiſtrators or aſſigns, ſhall not within ten days next after requeſt in that behalf made, on tender of his or her reaſonable coſts and charges, repair to the records, and there make and ſign ſuch acknowledgment, as aforeſaid, or otherwiſe by deed under hand and ſeal, releaſe to the mortgager,

Of mortgage after payment how diſcharged.

his heirs, executors, adminiſtrators, or aſſigns, his or her right, title and intereſt of, in, and unto the ſaid mortgaged premiſes, and acknowledge the ſame before ſome proper authority, he or ſhe ſo refuſing, ſhall be liable to anſwer and pay all damages occaſioned to the mortgager, his or her heirs, executors, adminiſtrators, or aſſigns, in conſequence of his or her not having made, and ſigned, ſuch acknowledgment on the record, or executed and authenticated ſuch releaſe as aforeſaid, to be recovered in any court proper to try the ſame, together with treble coſts of ſuit, and ſuch mortgager, his heirs, executors, adminiſtrators or aſſigns, ſhall have ſuch further relief, in a court of chancery, as to juſtice appertains.

Of *feme covert*, how acknowledged.

SEC. 12. *And it is hereby further enacted*, That no realeſtate, of which any *feme covert*, is or ſhall be ſeized, ſhall henceforth paſs by deed of herſelf, and baron, without a previous acknowledgment made by her ſeparately from her huſband, before a judge of the ſupreme court, or a judge of the county court, or ſome juſtice of the peace of the county, in which ſuch married woman ſhall live, or the land ſo to be conveyed, does lie, that ſhe executed ſuch deed, freely, and without any fear or compulſion of her huſband; a certificate of which acknowledgment taken as aforeſaid ſhall be endorſed on the deed, by the judge taking the ſame, and recorded at large with the deed.—And every alienation of ſuch eſtates not acknowledged and recorded as aforeſaid, is hereby declared to be utterly void.

SEC. 13. *And it is hereby further enacted*, That all deeds and other conveyances, the acknowledgment or proof of which, ſhall have been or hereafter ſhall be taken, without

this ſtate, if certified agreeably to the laws of the ſtate, province or kingdom in which it was taken, ſuch acknowledgment or proof, ſhall be as valid as though the ſame were taken before ſome proper officer or court, within this ſtate. Acknowledgment and proof of taken without the ſtate when valid.

SEC. 14. *And it is hereby further enacted*, That all fraudulent and deceitful deeds, conveyances and alienations of any lands, tenements and hereditaments, procured, made or ſuffered, with intent to avoid any right, debt or duty of any perſon or perſons, ſhall, as againſt ſuch perſon or perſons whole right, debt or duty is ſo intended to be avoided, his, her, or their heirs or aſſignsbe utterly void, any falſe pretenſion or feigned conſideration, to the contrary notwithſtanding. Fraudulent and deceitful conveyances void.

Paſſed March 6, 1797.

CHAPTER XXII.

An ACT *relating to actions of* account.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That when any defendant, or defendants in any action of account, pending in any court in this ſtate, ſhall plead in defence any plea (which being true, he, ſhe or they ought not to account,) it ſhall be tried by a jury, and if a verdict be found againſt him, her or them, the court ſhall render judgment, that he, ſhe or they account, and in ſuch caſe, and alſo when judgment ſhall be rendered on confeſſion, or default, the court may appoint one or more judicious, and diſintereſted men, auditor or auditors in the cauſe, who ſhall be ſworn, to hear, examine and adjuſt the account or accounts; and ſuch auditor or auditors are hereby authoriſed and empowered to appoint a time and place for hearing, examining and Actions of account proceedings therein regulated. Iſſue therein to be tried by jury. Auditors to be appointed. Their power.

adjuſting the accounts aforeſaid, and upon the defendant or defendant's refuſal, (due notice being given to him, her or them of the time and place appointed) to attend upon him or them, and produce his, her or their accounts, the auditor or auditors, ſhall proceed to take the account *ex parte*, and ſhall award to the plaintiff or plaintiffs ſuch ſum, as on his, her or their ſhowing, ſhall appear to be juſtly due, which ſhowing ſhall be made on the oath of the party, or other evidence as the nature of the caſe may require. And upon the parties appearing to render their accounts, the auditor or auditors ſhall have power to adminiſter an oath to them, according to the form preſcribed by law, and the parties being ſworn, the auditor or auditors ſhall have power to enquire by interrogatories as well of the plaintiff or plaintiffs as of the defendant or defendants, relative to their reſpective accounts; and alſo to croſs-examine the parties, with reſpect to each other's accounts, as they ſhall judge proper; and if either party ſhall refuſe to take ſuch oath, or to anſwer directly to ſuch interrogatories, ſuch refuſal relative to the particular matter, to which ſuch oath or anſwer is required, ſhall be taken againſt the party ſo refuſing. And when the auditor or auditors ſhall have adjuſted the account or accounts, and returned the ſame into court, judgment ſhall thereupon be rendered, if no juſt cauſe be ſhown to the contrary, for ſuch ſum, as ſhall be found in arrear from either party, with coſts, together with ſuch reaſonable coſts for the ſervice of the auditor or auditors as the court ſhall award; which ſhall by the party in whoſe favor judgment ſhall be rendered, be paid to the auditor or auditors, and allowed to ſuch party in his, her or their bill of coſt, which ſaid judgment ſhall be final between the parties.

SEC. 2. *And it is hereby further enacted*, That actions of account may be ſuſtained on book accounts, and the ſame proceedings ſhall be had therein, as is in this act before provided in the common action of account.

Provided nevertheleſs, and it is hereby further enacted, That the court before which the action ſhall be pending, and alſo the auditor or auditors appointed by the court, ſhall have power to call upon either party, to produce at any time pending the ſuit, either his ledger or original book of entries, as they ſhall think proper, and no diſputed account ſhall be allowed upon the oath of the party, when it ſhall appear he has an original book of entries, unleſs ſuch book ſhall be produced upon reaſonable requeſt

Actions of account may be ſuſtained by one joint tenant againſt another.

SEC. 3. *And it is hereby further enacted*, That actions of account ſhall and may be maintained by one joint tenant, tenant in common, or coparcener, his, her or their executors or adminiſtrators, againſt the other as bailiff, for receiving more than his, her or their juſt proportion of any eſtate or intereſt, and againſt the executors or adminiſtrators of ſuch joint tenant, tenant in common or coparcener.

May be ſuſtained by one adminiſtrator againſt another.

SEC. 4. *And it is hereby further enacted*, That when two or more perſons adminiſter on any inteſtate eſtate, and one or more of them have any part of the eſtate, in his, her or their poſſeſſion, and ſhall neglect to pay the debts and funeral charges in proportion to the eſtate he, ſhe or they ſo poſſeſs of the inteſtate, or ſhall neglect or refuſe to account with the other adminiſtrator or adminiſtrators, he, ſhe or they may bring an action of account againſt the other co-adminiſtrator or adminiſtrators, ſo neglecting or refuſing, and recover ſuch proportion of ſuch eſtate as he, ſhe or they ſhall be juſtly and equitably entitled to.

May be sustained by one executor against another.

SEC. 5. *And it is hereby further enacted*, That one executor may have his action of account for the estate of the testator, in the possession of his co-executor, in the same case, and in the same manner, as is above given in this act, to one administrator, against his co-administrator.

May be sustained by residuary legatees.

SEC. 6. *And it is hereby further enacted*, That any executor being a residuary legatee, may bring his action of account against the co-executor or executors of the estate of the testator, in his, her or their hands; and may also sue for, and recover his or her equal and rateable part thereof. And any other residuary legatee shall have like remedy against the executor or executors.

Appeal allowed.

SEC. 7. *And it is hereby further enacted*, That upon a judgment rendered in any county court, that the defendant shall account, the party against whom such judgment shall hereafter be rendered, shall have liberty to appeal therefrom, before the appointment of auditors be made, and in case the defendant shall not enter and prosecute his appeal from the first judgment, the same upon complaint shall be affirmed, and auditors may thereupon be appointed in the same manner, they would have been in the county court, had no appeal from the first judgment been taken.

Auditors to settle all accounts between the parties.

SEC. 8. *And it is hereby further enacted*, That the auditor or auditors appointed in any action of account, in hearing, examining and adjusting the accounts of the parties, shall hear, examine and adjust all the accounts existing between them, of a similar nature, and in the same right, to the time of making up his or their report, any law, usage or custom to the contrary notwithstanding.

Passed February 23, 1797.

CHAPTER XXIII.

An ACT *relating to* gaols *and* gaolers, *and for the relief of* perſons *impriſoned therein.*

SECTION I. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That there ſhall be kept and maintained in good and ſufficient repair, a common gaol or priſon in every ſhire or county town in this ſtate. Gaols to be kept in repair in the ſeveral counties.

And the whole charge of building, when there ſhall be occaſion, and of keeping ſuch gaol in repair, ſhall be defrayed by the county to which the ſame belongs, unleſs otherwiſe provided for. Counties to defray the expence thereof.

SEC. 2. *And it is hereby further enacted*, That at the ſtated ſeſſion of the ſupreme court of judicature, in each county in this ſtate, the grand jurors impannelled at ſaid court ſhall examine into the ſituation of the gaols in the ſeveral counties. To be inſpected by grand-jury, and if found inſufficient, to preſent the ſame to the ſupreme court.

And if the ſaid jurors ſhall find ſuch gaol or goals inſufficient, they ſhall preſent the ſame to the court, who ſhall order a record thereof to be made by their clerk, and a copy thereof tranſmitted to the clerk of the county court in the ſame county.

And it ſhall be the duty of the ſheriff of ſuch county immediately, by and with the advice, and under the direction of one or more of the judges of the county court in the ſame county, to repair ſuch gaol or gaols, and keep an accurate account of the monies by him expended in ſuch repairs, and exhibit the ſame to the judges of the county court in the ſame county, whoſe duty it ſhall be to audit the ſame, and direct their clerk to draw an order on the treaſurer of ſaid county, for the ſum which is found due to ſuch ſheriff, Sheriff's duty to repair gaols.

and it ſhall be the duty of ſuch treaſurer immediately to pay the ſame.

Repreſentatives of the county to meet at the ſtated ſeſſion of the legiſlature, and lay a county tax:

SEC. 3. *And it is hereby further enacted*, That it ſhall be the duty of the repreſentatives choſen to repreſent the ſeveral towns in ſuch county, in General Aſſembly, to meet in convention ſometime during the ſtated ſeſſion of the Legiſlature, annually, and aſſeſs ſuch tax upon the polls and rateable eſtate of the inhabitants of the ſeveral towns in ſuch county, as to them ſhall appear neceſſary.

And tranſmit the ſame to the county treaſurer, who ſhall iſſue warrants to the firſt conſtables to collect the ſame.

Which tax they are hereby empowered to levy, for the purpoſe of defraying the expences and debts of ſuch county, and ſhall tranſmit to the treaſurer of ſuch county the ſum of ſuch tax ſo by them aſſeſſed.

And it ſhall be the duty of the treaſurer of ſuch county to iſſue his warrant to the firſt conſtable of the ſeveral towns in ſuch county to collect ſuch tax.

Sheriffs liable for eſcapes:

SEC. 4. *And it is hereby further enacted*, That the ſheriffs of the ſeveral counties in this ſtate, ſhall be liable for all eſcapes, made from the gaols in the counties to which they ſeverally belong—excepting ſuch priſoners as are committed from ſome other county.

Where eſcapes are made through the inſufficiency of the gaol, counties liable.

Provided always, That when ſuch ſheriff, or ſheriffs, ſhall make it appear, to the ſatisfaction of the judges of the county court within the ſame county that ſuch eſcape was made through the inſufficiency of the gaol, and not by any negligence of their's, either in keeping the priſoner or priſoners, or in repairing the gaol or gaols, the county ſhall be anſwerable to ſaid ſheriff for all legal coſt and damage, which ſuch ſheriff may ſuſtain in conſequence of ſuch eſcape.

Provided neverthelefs, That when any action ſhall be brought againſt any ſheriff, for the eſcape of any priſoner, ſuch ſheriff may,

on trial of the cauſe, produce evidence of the circumſtances, ſituation and property of the priſoner, when ſuch eſcape was made, and all the circumſtances attending ſuch eſcape; and the creditor ſhall recover no more than his reaſonable and juſt damages, which he ſhall have ſuſtained in conſequence of ſuch eſcape, and his legal coſt.

Sheriffs may ſhow the circumſtances, &c. of the perſon eſcaped, and ſhall be liable for juſt damages only.

SEC. 5. *And it is hereby further enacted*, That when any gaol ſhall be broken, or by any other accident ſhall be out of repair, ſo as to be dangerous to truſt priſoners therein, it ſhall be the duty of the ſheriff to repair the gaol, without any preſentment from the grand jury under the direction of one or more of the judges as before provided in this act—And his accounts ſhall be allowed and paid as before preſcribed.

Sheriff to repair gaol in certain caſes.

SEC. 6. *And it is hereby further enacted*, That every perſon committed to the common gaol within any county in this ſtate, by lawful authority, for any offence or miſdemeanor, having the means and ability, ſhall bear his or her own reaſonable charges, for conveying or ſending him or her to ſuch gaol, and alſo the charges of ſuch perſon or perſons as ſhall be appointed and employed to guard him or her thither, and ſhall alſo pay for his or her own ſupport, while in gaol, before he or ſhe ſhall be diſcharged.

Perſons committed to gaol for offences, if they have ability ſhall bear their own expences and the expence of commitment:

And his or her eſtate, whether real or perſonal, ſhall be ſubject to the payment of ſuch charge or charges.

Their eſtates made liable:

And for want of ſuch eſtate he or ſhe may be aſſigned in ſervice, by order of the county court, in the county where ſuch charge or charges ſhall accrue, to any perſon who ſhall appear and diſcharge the ſame.

If no eſtate, may be aſſigned in ſervice:

SEC. 7. *And it is hereby further enacted*, That all priſoners ſhall be permitted to pro-

May provide their

own bedding, &c.

vide for themſelves food, bedding, linen, and other neceſſaries as they ſhall think fit.

Gaolers may not demand more than legal fees.

And the keeper of any common gaol, ſhall not demand of any priſoner any other or greater fees for his commitment, diſcharge, or chamber-room, than ſhall by law be allowed.

Nor injure priſoners.

And if any keeper of a common gaol ſhall do, or cauſe or ſuffer to be done any wrong or injury, to any priſoner committed to his cuſtody, contrary to the intent of this act, he ſhall pay treble damages to the party aggrieved, and alſo ſuch fine as the county court, of the county in which the offence is committed, ſhall, upon information or complaint to them made, think reaſonable.

Penalty for.

Gaolers on tender of money ſhall board priſoners.

SEC. 8. *And it is hereby further enacted*, That the keeper of the common gaol in this ſtate, on application of any priſoner committed to his cuſtody in confinement, or in the liberties of the goal-yard, on tender of the money from ſuch priſoner ſo committed, for one week's board, or for any ſhorter or longer time, (as the board ſhall become due) ſhall board and find ſuch priſoner with good and wholeſome food and drink for the ſame ſum allowed for ſtate priſoners, unleſs in a time of ſcarcity, and in ſuch caſe, the ſaid keeper ſhall take no more than the common price of boarding in the vicinity of the ſaid gaol.

Prices of board in time of ſcarcity regulated

Penalty for refuſal.

And any keeper as aforeſaid, who ſhall refuſe to board any priſoner, or ſhall aſk, demand, and receive a greater price as aforeſaid, ſhall forfeit and pay to ſuch priſoner the ſum of five dollars, to be recovered by an action of the caſe grounded on this act in any court proper to try the ſame.

Gaol yards to be ſet out by county courts.

SEC. 9. *And it is hereby further enacted*, That it ſhall be the duty of the ſeveral county courts in their reſpective counties, to ſet

out yards for the liberty of the prisoners to their respective gaols.

SEC. 10. *And it is hereby further enacted*, That any person imprisoned in gaol on *mesne process* in any civil action or upon execution founded on a proper action of debt, covenant, contract or promise, shall be admitted to the liberties of the gaol yard, such prisoner first giving bond to the sheriff of the county in which he shall be imprisoned, with one or more sufficient sureties, being free-holders resident within this state, to be bound jointly and severally, in such sum as the said sheriff shall direct, with a condition in the same bond, under written in the form following, to wit,

Prisoners for debt admitted to the liberties of the gaol yard, by giving bond to the sheriff.

" The condition of the above obligation is such, that whereas the above bounden now a prisoner in the common gaol in in the county of and state of Vermont, by virtue of an execution in favor of of in the county of and state of for the sum of dollars and cents, (debt, damages, or costs, as the case may be,) and for the sum of dollars and cents costs, with cents for said execution, and the officer's fees on the same to the amount of dollars and cents, issued on judgment recovered before (here set forth the court, time, &c.) and signed by (here mention the authority signing the execution.)"

Condition of the bond.

Or when the bond is taken on *mesne process*, insert in the condition, " Now a prisoner in the common gaol at &c. at the suit of of in the county of and state of demanding in his writ, debt or damages, to the amount of dollars, now if the said shall faithfully and absolutely remain

within the limits of ſaid gaol yard, and ſhall not depart therefrom, until he, ſhe, or they, (as the caſe may be) ſhall be lawfully diſcharged, without committing any eſcape before ſuch diſcharge, or doing any act by which the ſaid ſheriff as aforeſaid ſhall be damnified in conſequence of admitting the ſaid to the liberties of ſaid priſon, but ſhall at all times, indemnify, and ſave harmleſs, the ſaid ſheriff, in the premiſes, then this obligation to be void and of no effect, otherwiſe to abide and remain in full force and virtue.

(L. S.)
(L. S.)
(L. S.)

Signed, ſealed, and delivered, in preſence of }

And the blanks in ſaid condition ſhall be filled up as the reſpective caſes may require.

Bonds aſſignable by the ſheriff to the creditor.

Creditors may ſue bonds in their own name,

SEC. 14. *And it is hereby further enacted*, That when the condition of any bond, legally taken as aforeſaid, for admitting a debtor impriſoned, to the liberties of the gaol yard, ſhall be broken, ſuch bond ſhall be aſſignable to the creditor, or creditors, who may maintain action thereon, in his, her, or their own name, and ſhall be entitled to all the privileges and advantages thereon, to which the ſheriff or other officer taking the ſame would be entitled, if the action were brought by him, and no action ſhall be maintained againſt any officer taking ſuch bond, for an eſcape, or other cauſe mentioned in the condition thereof, unleſs the creditor or creditors ſhall have ſued the bond taken by ſuch officer, and aſſigned as aforeſaid, and be unable to receive the debt or damages, if the ſheriff or other officer who took the bond, ſhall, upon demand made, aſſign ſuch bond to the creditor or creditors, and

if the signer or signers of such bond, shall be unable to satisfy the judgment recovered thereon, or if the creditor or creditors, shall not be able to recover judgment on said bond, against him, her, or them, on account of the neglect, latches or default of the officer, the creditor or creditors may sue the officer taking such bond, upon the original cause of action, and shall recover against him, all damages which such creditor or creditors shall have sustained. Obligors unable to pay sheriff liable.

SEC. 12. *And it is hereby further enacted*, That when any person imprisoned in gaol by virtue of any execution issuing from any court within this state, on a judgment recovered on proper action of debt, covenant, contract or promise, or for costs recovered on abatement, non-suits, discontinuance or demurrer, shall not have estate either real or personal to the value of 20 dollars, necessary apparel, and bedding for himself and family, excepted, nor sufficient to pay the debt, damages or costs for which he is committed, and has not disposed of the same after commitment, except for the purpose of necessary subsistence, of him or herself, and family, nor sufficient to support him or her in prison, such person may apply to two justices of the peace, one of whom shall be a judge of the supreme court of judicature, or judge of the county court, of the county in which he or she is imprisoned, praying to be discharged from his or her confinement, on taking the oath herein after prescribed, and such justices or either of them to whom application shall be made, shall issue a citation to notify the creditor or creditors, in such execution, of such prisoner's desire of taking the privilege and benefit allowed in and by this act, of the time when and the place where they will attend to administer the oath. Prisoners for debt admitted to their oath and released from imprisonment. Mode of proceeding.

to ſuch priſoner, and for ſuch creditor or cred. itors to appear before ſaid juſtices and ſhow cauſe if any he, ſhe or they have, why ſuch priſoner ſhould not be diſcharged on taking the oath as aforeſaid, which citation ſhall be ſerved on the creditor or creditors of ſuch priſ. oner, if he, ſhe or they live within this ſtate, his, her or their executor or adminiſtrator, and if ſuch creditor or creditors live without this ſtate, upon his, her, or their agent or attorney who brought forward the ſuit, on which the judgment whereon the execution by which the priſoner ſtands committed was rendered, at leaſt twenty days before the time appointed for taking ſaid oath by the ſame officers, and in the ſame manner as is directed in the ſervice of civil writs and proceſſes.

Provided always, That if any creditor or creditors, live without this ſtate, and have no agent or attorney as aforeſaid living in the ſame, a true and atteſted copy of ſuch citation ſhall be left with the clerk of the court, or juſtice of the peace by whom the ſaid execution was ſigned, at leaſt thirty days before the time appointed for taking ſaid oath.

And if ſuch creditor or creditors, or his, her, or their legal repreſentative, can make it appear to the ſatisfaction of ſaid juſtices, that the priſoner hath practiſed fraud, deceit, or falſhood in the management of his eſtate, real or perſonal, to take advantage of this act, or can ſhow other ſufficient cauſe, he or ſhe ſhall not be admitted to take ſuch oath.

Juſtices to examine by witneſſes or interrogatories into the circumſtances of the priſoner.

And if no objection be made by the creditor or creditors, or ſome other perſon, it ſhall be the duty of ſuch juſtices carefully to examine, by witneſſes, or by interrogatories, to the priſoner under oath, into the circumſtances, ſituation and property of the priſoner, before they admit him or her to ſwear.

And if, upon ſuch examination, ſuch juſtice ſhall be of opinion that the priſoner is a fit and proper ſubject of the privilege and benefit given by this act, they ſhall adminiſter to him or her the following oath, to wit,

"You ſolemnly, ſincerely and truly ſwear (or affirm) by the name of the ever living God, without evaſion, equivocation, or mental reſervation, that you have not any eſtate, real or perſonal, except neceſſary apparel and bedding for yourſelf and family, in poſſeſſion, remainder, or reverſion, to the value of twenty dollars in the whole, nor ſufficient to pay the debt, damages or coſt for which you are committed, nor have you ſince your commitment diſpoſed of the ſame, except for the neceſſary ſubſiſtence of yourſelf and family, and that you have not directly nor indirectly, diſpoſed of all or any part of your eſtate to defraud or deceive any of your juſt creditors. So help you God. Or (in caſe of an affirmation) under the pains and penalties of perjury." Oath.

Which oath or affirmation by ſaid juſtices, being adminiſtered to, and taken by ſuch priſoner, they ſhall then make two certificates in the form following, to wit, Juſtices to make two certificates.

"STATE OF VERMONT.

"County of ſs.

"To A. B. keeper of the gaol in in the county of aforeſaid— GREETING.

"Whereas C. D. a priſoner in your cuſtody on an execution at the ſuit of E. F. of in the county of &c. for the ſum of [debt or damages or coſt as the caſe may be] and for the ſum of coſts of ſuit, ſigned by G. H. [clerk or juſtice of the peace as the caſe may be] and dated at the day of An- Form of certificates.

no Domini has this day taken the oath [or affirmation] prescribed in an act, entitled, "An act relating to gaols or gaolers, and for relief of persons imprisoned therein."—The said E. F. having been duly notified, [did or did not attend, as the case may be] and in our opinion the said C. D. ought to be discharged.

"Witness our hands at this day of A. D.

"I. J. Judge of
"K. L. Justice of peace."

"STATE OF VERMONT.
"County of ss.

"To all people to whom these presents shall come— GREETING—

"Whereas C. D. a prisoner in the common gaol in in the county of aforesaid, on an execution at the suit of"—[To be concluded in every respect as in the preceding form.]

First certificate to be delivered to the gaoler and the other to the debtor.

The former of which certificates shall be delivered to the keeper of the gaol, and the latter to the prisoner.

And such prisoner then satisfying the creditor or creditors for all charges incurred in providing for his or her support in prison; and also the keeper of the gaol, for past charges, shall thereupon be discharged, and his or her body be thereafter exempt from execution for the same debt or debts.

Though discharged, their property liable.

SEC. 13. *And it is hereby further enacted*, That all and every judgment obtained against any such prisoner shall notwithstanding such discharge, be and remain good and effectual in law to all intents and purposes, against any estate whatever, which may then or at any time afterwards, belong unto any such prisoner, and a new execution may issue at any time, against the goods, chattels or lands of

ſuch priſoner, in the ſame way and manner as might have been done, if the priſoner had never been in execution.

Debtor's eſtate liable to pay priſon charges.

And the ſaid debtor's eſtate ſhall alſo be liable to pay priſon charges during all the time of his or her impriſonment.

SEC. 14. *And it is hereby further enacted,* That if any perſon to whom the aforeſaid oath or affirmation ſhall have been adminiſtered, ſhall be convicted of falſe ſwearing therein, he or ſhe ſhall be liable to all the pains of wilful and corrupt perjury, and ſhall take no benefit by this act.

Penalty for falſe ſwearing.

SEC. 15. *And it is hereby further enacted,* That no perſon who by reaſon of a conviction of any crime, ſhall by law be rendered incompetent to give teſtimony, ſhall be admitted to ſaid oath. And no perſon ſhall be admitted to ſaid oath who ſhall be impriſoned on any debt or demand in behalf of the ſtate, or in behalf of the ſtate and another, or of any party aggrieved who ſhall have recovered againſt ſuch perſon for the breach of any penal law.

Perſons infamous not to be admitted the oath.

Nor perſons impriſoned in behalf of the ſtate.

SEC. 16. *And it is hereby further enacted,* That the juſtices or either of them who ſhall compoſe any court to admit any priſoner to the benefit of the oath preſcribed by this act, ſhall have power to adjourn ſuch court upon juſt cauſe, for ſuch length of time as he or they ſhall judge reaſonable.

Juſtices, or either of them may adjourn the court.

And if any ſuch court ſhall adjudge upon hearing, that any ſuch priſoner is not a proper ſubject of the relief provided by this act, and ſhall not admit him or her to the oath herein preſcribed, and ſuch priſoner ſhall afterwards make another application, and a citation ſhall iſſue thereon, ſuch application ſhall be made to the ſame juſtices who compoſed the former court, unleſs ſuch juſtices ſhall not be in the commiſſion, and if one but not both of the

Perſons applying and not admitted to the oath, proceeding on a ſecond application.

former juſtices be in commiſſion, then ſuch application ſhall be made to the juſtice ſo in commiſſion; and one of the judges of the ſupreme court of judicature, or a judge of the county court of the ſame county; and if any citation ſhall iſſue, or any application, otherwiſe than is above directed, the ſame ſhall be diſmiſſed.

Juſtices to tax coſts againſt priſoners if not admitted to the oath.

SEC. 17. *And it is hereby further enacted*, That if any priſoner ſhall cauſe a citation to be ſerved on any creditor or creditors, his, her, or their agent or attorney, and ſuch priſoner ſhall not be admitted to the oath herein before preſcribed, by the juſtices who ſhall compoſe the court, ſuch juſtices ſhall tax coſts for the creditor or creditors, and iſſue execution thereon accordingly, if ſuch creditor or creditors ſhall attend by him or herſelf, or themſelves, his, her, or their agent or attorney.

Gaols for confining priſoners committed by authority of the United States.

SEC. 18. *And it is hereby further enacted*, That the common gaols in the counties of Bennington, Windham, Rutland, Windſor, Addiſon, and the city of Vergennes, in addition to the purpoſes for which they are now uſed, ſhall be gaols for receiving and ſafe keeping ſuch priſoners as ſhall be committed under the authority of the United States, until they ſhall be diſcharged by the due courſe of the laws thereof.

Gaolers required to receive United States priſoners.

And the keepers of the ſaid gaols reſpectively, are hereby required to receive the ſaid priſoners, under the like pains and penalties for neglect of duty therein, as they now are by law, in the caſe of priſoners committed under the authority of this ſtate.

Proviſo.

Provided, That the United States pay to the keepers of ſuch gaols, for the uſe and keeping of ſaid gaols, at the rate of fifty cents per month for each priſoner who ſhall, under their authority, be committed thereto, during the

time ſuch priſoner ſhall be confined therein, and alſo ſupport ſuch of ſaid priſoners as may be committed for offences, and alſo pay to the keepers of ſuch gaols the cuſtomary fees for committing and diſcharging priſoners.

United States to pay for uſe of gaols:

SEC. 19. *And it is hereby further enacted*, That the keepers of ſaid gaols reſpectively, ſhall at the end of every twelve months from the firſt day of December next, render an account, and pay to the treaſurer of the county of which he is keeper of the gaol, or the treaſurer of the city of Vergennes, of which he is keeper of the gaol therein, all monies they ſhall have received, reſpectively from the United States, for the uſe and keeping of ſuch gaols as aforeſaid, except the cuſtomary fees for committing and diſcharging priſoners as aforeſaid.

Gaolers to account with county treaſurer for monies received from United States the firſt of December annually:

Provided always, That no county, ſheriff, deputy ſheriff, or gaoler, ſhall be liable for the eſcape of any priſoner, through the inſufficiency of the gaol, who ſhall be committed to either of the gaols aforeſaid, by and under the direction of the United States, any thing contained in this act to the contrary notwithſtanding.

Counties, ſheriffs, and gaolers not reſponſible for eſcapes of United States priſoners.

Paſſed March 9, 1797.

CHAPTER XXIV.

An ACT *regulating* marriage *and* divorce.

Marriage within certain degrees of kindred forbidden.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That no man or woman ſhall intermarry within the degrees hereafter mentioned, that is to ſay;

No man ſhall marry	*No woman ſhall marry*
his Mother,	*her* Father,

Step-mother,	Step-father,
Siſter,	Brother,
Father's ſiſter,	Father's brother,
Mother's ſiſter,	Mother's brother,
Daughter,	Son,
Son's daughter,	Daughter's ſon,
Daughter's daughter,	Son's ſon,
Brother's daughter,	Brother's ſon,
Siſter's daughter.	Siſter's ſon.

Such mariages inceſtuous, and the offſpring illegitimate.

And if any man or woman within the degrees aforeſaid, ſhall intermarry, every ſuch marriage ſhall be taken, deemed and adjudged to be inceſtuous, and *ipſo facto* null and void, and the iſſue of ſuch marriage illegitimate, and be ſubjected to all the legal diſabilities of ſuch iſſue; and no perſon ſhall be capable of contracting marriage, who at the time of ſuch pretended contract, ſhall have a former huſband or wife living, never having been divorced or legally releaſed from his or her former marriage, but every ſuch after marriage ſhall be utterly void, and the iſſue thereof deemed illegitimate.

Marriage how ſolemnized.

SEC. 2. *And it is hereby further enacted*, That every ordained miniſter of the goſpel in the county in which he is ſettled, and hath his permanent reſidence, and in no other place; and every juſtice of the peace, within his proper ſphere of juriſdiction, ſhall be and hereby are authoriſed and empowered to ſolemnize marriages, between perſons, who may lawfully enter into that relation.

Intention to be publiſhed.

SEC. 3. *And it is hereby further enacted*, That previous to any marriage being ſolemnized between any two perſons, the intention of ſuch marriage ſhall be publiſhed in ſome public meeting, in the reſpective towns or places in which the parties ordinarily reſide, by the miniſter of the goſpel, town or pariſh clerk of

ſuch towns or places, or ſuch intention ſhall be poſted at ſome public place, in ſuch towns or places, in fair writing, and ſigned by the miniſter, town or pariſh clerk, or in their abſence by ſome juſtice of the peace, at leaſt eight days before ſuch intended marriage.

Provided neverthelefs, and it is hereby further enacted, That if both or either of the parties intending to be married, live in a town or place in which there ſhall be no miniſter, town or pariſh clerk, then publiſhment ſhall be made in the town or place next adjoining, in which there ſhall be ſuch miniſter or clerk in manner aforeſaid. And if any perſon or perſons other than the perſons intending marriage, ſhall deface or pull down any ſuch publiſhment poſted as aforeſaid, before the expiration of eight days from the time of its being ſet up, ſuch perſon or perſons, ſhall forfeit and pay to the treaſury of the town in which the offence was committed, the ſum of *ſeven dollars*, to be recovered by the town or pariſh clerk, with coſts of proſecution, in an action of debt brought on this ſtatute, and it is hereby made the duty of ſuch miniſters and town or pariſh clerks reſpectively, to make and deliver to the parties, or either of them, a certificate that the intention of marriage between them has been publiſhed agreeably to law.

Penalty for pulling down publications.

SEC. 4 *And it is hereby further enacted*, That if any miniſter of the goſpel or juſtice of the peace, ſhall join any perſon in marriage, without a certificate as aforeſaid, or before ſuch miniſter or juſtice is certified of the conſent of the parents, guardians or maſters, (if any there be) if either party be a minor; or ſhall otherwiſe than is expreſsly allowed by this act, join any perſons in marriage, they ſhall ſeverally forfeit and pay the ſum of ſeventy dollars, to the uſe of any parent, guardian,

Penalty for marrying without publication.

or maſter, or next friend to either of the parties ſo married, who may ſue therefor, and recover the ſame with coſts, in any court proper to try the ſame, in an action of debt, brought on this ſtatute.

Penalty for marrying without authority

SEC. 5. *And it is hereby further enacted*, That if any perſon not authoriſed and empowered to ſolemnize marriage by this act, ſhall join any perſons in marriage, and be thereof convicted, on indictment, before the ſupreme court of judicature, he ſhall pay a fine at the diſcretion of the court, to the uſe of the county in which the offence ſhall be committed, the fine not to exceed three hundred dollars, nor be leſs than one hundred dollars.

Marriage among Quakers how ſolemnized.

Provided neverthelefs, and it is hereby further enacted, That nothing in this act ſhall be conſtrued to affect the right of the people called Friends or Quakers, to ſolemnize marriages in the manner uſually practiſed in their meetings, but all ſuch marriages ſo ſolemnized, ſhall be good and valid in law, any thing in this act to the contrary notwithſtanding.

Perſons marrying to keep a record of their marriages

SEC. 6. *And it is hereby further enacted*, That every miniſter of the goſpel, juſtice of the peace, and clerk of the people, called Friends or Quakers, ſhall make and keep a particular record of all marriages, ſolemnized before them reſpectively, which record ſhall be made in the form following, *namely*,

Form of record.

"STATE OF VERMONT.

"County, ſſ.

"*Be it remembered*, That A. in the county aforeſaid, on this day of in the year of our Lord, A. B. of in the county of and ſtate of and C. D. of in the county of and ſtate of were duly joined in marriage.

"By me, E. F. miniſter, juſtice of the peace, or clerk of the Friends or Quakers."

And every ſuch miniſter, juſtice of the peace, or clerk of the people called Friends or Quakers, ſhall in the month of March annually, return to the clerk of the town or place in which ſuch marriage ſhall be by them reſpectively ſolemnized, or where the intention of marriage was publiſhed, a certified copy of every ſuch record ſo by them reſpectively made, within the laſt preceding year. And return the ſame in the month of March annually.

SEC. 7. *And it is hereby further enacted*, That if any miniſter, juſtice of the peace or clerk of the people called Friends, or Quakers, ſhall neglect to return a certified copy of every ſuch record, to the clerk as before mentioned, he or they ſhall for every neglect, ſeverally forfeit and pay the ſum of ſeven dollars, to the uſe of the town or place, to which ſuch record by law is made returnable, to be recovered, with coſts, by the town or pariſh clerk of ſuch town or place, in an action of debt brought on this ſtatute. Penalty for neglect.

SEC 8. *And it is hereby further enacted*, That the clerk of every town or place ſhall record at large in the book of records belonging to ſuch town or place, all records of marriages returned to him as aforeſaid, and ſhall receive therefor out of the town treaſury ſix cents for each record by him made. Town clerk to record marriages

SEC. 9. *And it is hereby further enacted*, That a certified copy of the record of any marriage as aforeſaid, under the ſignature of any ſuch miniſter, juſtice of the peace, clerk of the people called Friends or Quakers, or of the town or pariſh clerk, may be given in evidence in any court in this ſtate. Certified copy from him legal evidence.

SEC. 10. *And it is hereby further enacted*, That the ſupreme court of judicature, may and are hereby authoriſed and empowered,

Divorce bills of, to be granted by ſupreme court.

on petition, to grant bills of divorce from the bonds of matrimony, for the following cauſes, *to wit*,

Cauſes of

For impotency, adultery, intolerable ſeverity, or wilful deſertion for three years, with neglect of duty, in either of the parties; and alſo when either party ſhall have been abſent ſeven years, and unheard of during that time; and the parties ſo divorced ſhall thereupon be deemed ſingle, and may lawfully marry again.

Mode of proceſs.

SEC. II. *And it is hereby further enacted*, That either judge of the ſupreme court of judicature, or the clerk of ſaid court, on petition being preſented him, may iſſue a citation ſetting forth the cauſe of the petitioner's complaint, ſpecially, and ſhall cauſe the petitionee, if within this ſtate to be ſerved with an atteſted copy thereof, and with a ſummons to appear at the court before which the petition is to be heard, to ſhow cauſe, if any he or ſhe have, why the prayer thereof ſhould not be granted; which ſervice ſhall be made, in all things, as is directed in caſes of writs of error, when the defendant lives within the ſtate; but if the petitionee live without the reach of legal proceſs, the judge to whom ſuch petition is preſented, may direct the ſubſtance of ſaid petition, and his citation as aforeſaid thereon, to be publiſhed in ſuch public news-paper or papers as he ſhall ſuppoſe will moſt probably give notice to the petitionee of the premiſes; for ſuch number of weeks ſucceſſively, as he ſhall judge proper, the laſt of which publication, ſhall be at leaſt ſix weeks before the ſeſſion of the court, to which ſuch petition is addreſſed, and if ſuch petition ſhall be entered in court, without the citation and ſummons having firſt iſſued, or any ſervice, or publication thereof as aforeſaid being made, the court

before they proceed to hear the ſame, ſhall direct ſuch meaſures to be taken, as they ſhall think expedient to give notice to the petitionee to appear at the next ſeſſion of ſaid court, and ſhow cauſe if any he or ſhe have, why the prayer of the petitioner ſhould not be granted.

Wife may have alimony.

SEC. 12. *And it is hereby further enacted*, That the judges of the ſupreme court of judicature may in all caſes when a divorce is decreed, reſtore to the wife all or any part of her lands, tenements or hereditaments, and may aſſign to the wife, ſuch part of the real and perſonal eſtate of her late huſband, as all circumſtances duly conſidered, they may think juſt and reaſonable; and they may uſe ſuch proceſs to carry their judgment or decree into effect, as may be neceſſary; and may compel the huſband to diſcloſe on oath, what eſtate both real and perſonal he hath received in right of his wife, and how the ſame hath been diſpoſed of and what portion thereof remained in his hands, at the time of ſuch divorce.

Paſſed February 28, 1797.

CHAPTER XXV.

An ACT *regulating the collection and payment of rates.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That every inhabitant of this ſtate, except ſuch as are or ſhall by law be exempted, ſhall contribute to the public charges and expences thereof, and ſhall be compelled thereto, if need be, by diſtreſs.

SEC. 2. *And it is hereby further enacted*, That all rates and taxes, which ſhall be granted by the General Aſſembly, and all other

Taxes to be aſſeſſed on the liſt of polls and rateable eſtates.

rates and taxes of counties, towns, ſocieties or other communities, which are or ſhall by law be enabled to grant taxes, ſhall be aſſeſſed by the ſame rule, that is to ſay, in proportion to the general liſt of the polls and rateable eſtates, from time to time, given in, and made according to law, except where ſome other rule of granting and levying rates, taxes or aſſeſſments, is or ſhall by law be provided.

Treaſurer to iſſue his warrant to firſt conſtable to collect ſtate taxes.

SEC. 3. *And it is hereby further enacted*, That when the General Aſſembly ſhall grant any rate or tax, to be levied upon the inhabitants of this ſtate, the treaſurer of the ſtate for the time being, is hereby required, without further notice, to iſſue his warrant, by the authority of this ſtate to the firſt conſtable, choſen in the reſpective towns, pariſhes, or diſtricts in this ſtate, ſubject to the payment of ſuch rate or tax, commanding him to levy and collect ſuch rate or tax, and pay the ſame into the treaſury, by the time preſcribed by the act granting the ſame, and every ſuch conſtable on receiving from the ſelectmen of his reſpective town, pariſh or diſtrict, an aſſeſſment or rate bill of the tax to be collected, ſhall immediately give, at leaſt, ſix days, notice to each inhabitant or reſident of his reſpective town, pariſh, or diſtrict, taxed in ſuch aſſeſſment, or rate bill, the ſum at which he, ſhe or they are aſſeſſed, and of the time and place he will attend to receive ſuch rate or tax, before he ſhall make any diſtreſs thereof, unleſs in caſes where ſuch conſtable ſhall have juſt reaſon to think any perſon is about abſconding or removing out of his town, pariſh, or diſtrict. And upon the neglect or refuſal of any perſon or perſons to pay his, her or their rates or taxes, as aforeſaid, the ſaid conſtable is hereby empowered and required to diſtrain the goods or chattels of the perſon or perſons ſo neglecting or refuſing, to ſatisfy ſuch rate or tax, who ſhall be entitled to eight

May diſtrain goods &c.

cents on every dollar for his trouble, exclusive of his lawful fees for travel, and all other neceſſary and reaſonable charges.

SEC. 4. *And it is hereby further enacted*, That when any goods or chattels ſhall be diſtrained as aforeſaid, for the payment of any rate or tax, the ſaid conſtable ſhall keep ſuch diſtreſs for the ſpace of four days (unleſs the money and all coſts for which ſuch diſtreſs is taken ſhall be ſooner paid) at the coſt and charge of the owner; and if the owner do not pay ſuch rate or tax, and all coſts and charges which ſhall have accrued thereon, within the ſaid four days, then the ſaid conſtable, after poſting ſuch diſtreſs for ſale, for the ſpace of ſix days, in ſome public place within the town, pariſh or diſtrict, in which ſuch diſtreſs was taken, ſhall ſell the ſame at public vendue, to the higheſt bidder—and after deducting the rate or tax, and the coſts of taking, keeping and ſelling ſuch diſtreſs, the ſaid conſtable ſhall return the overplus, if any there be, to the former owner, or pay the ſame on demand; and ſhall alſo furniſh ſuch former owner, with the account of the rate or tax, with the coſts ariſing on ſuch diſtreſs, if requeſted.

Mode of ſale.

SEC. 5. *And it is hereby further enacted*, That for want of goods or chattels whereon to make diſtreſs, the ſaid conſtable may take the body of the perſon or perſons neglecting or refuſing to make payment as aforeſaid, and him, her or them commit to the common gaol in the ſame county (if there be a ſufficient one in the ſame county, if not, to ſuch other one as the ſaid conſtable ſhall judge beſt,) and ſuch perſon or perſons ſo committed ſhall there remain, until ſuch rates or taxes and lawful coſts be paid.

For want of goods, &c. may take the body and commit to gaol.

Gaolers to receive delinquents.

SEC. 6. *And it is hereby further enacted*, That when any perſon ſhall be committed as aforeſaid, the conſtable ſhall leave with the keeper of the gaol, an atteſted copy of his warrant, and thereupon certify the ſum or ſums of money ſuch perſon is taxed in his rate-bill or aſſeſſment and his legal coſts, and that he hath taken the body for want of goods or chattels whereon to make diſtreſs. And ſuch atteſted copy and certificate thereon, ſhall be a ſufficient warrant to require the keeper of the gaol to receive and detain ſuch priſoner in cuſtody, until he pay the ſums ſo certified, with coſts of commitment and charges of impriſonment. And the gaoler ſhall be anſwerable for his eſcape, except where he eſcapes through the inſufficiency of the gaol, in which caſe the county, from which ſuch delinquent was committed ſhall be anſwerable.

Conſtable may extend his warrant on lands in certain caſes.

Mode of ſale.

SEC. 7. *And it is hereby further enacted*, That when any perſon ſhall be abſent againſt whom a conſtable ſhall have a ſtate, or other rate or tax to collect, and he can find no goods or chattels within ſaid town, whereon to make diſtreſs, ſuch conſtable may extend his warrant, for the collection of ſuch rate or tax, on the lands of ſuch abſent perſon, who ſhall publiſh the ſame for ſale, in one or more of the news-papers in which land taxes are by law to be publiſhed, three weeks ſucceſſively, mentioning the time and place of ſale, the laſt day of which publication, ſhall be at leaſt ten days before ſuch day of ſale, and alſo ſet up a notification of ſuch ſale as aforeſaid, in the town where the land lies, and in two adjacent towns—and if ſuch rate or tax with the legal coſts be not paid within that time, ſuch conſtable may ſell ſo much of ſuch perſon's land,

at public vendue, as will pay such rate or tax, and all costs and charges.

Provided nevertheless, That if the owner or owners of any land sold as aforesaid, their heirs or assigns, executors or administrators, shall pay or tender to such constable, the full sum for which such land was sold, with legal costs, and twelve per cent. interest thereon, within one year from the day of such sale, the constable shall not execute a deed for such land so redeemed, and the title shall not be conveyed by such vendue sale, and the constable shall pay to the purchaser the money so by him received. Redemption.

SEC. 8. *And it is hereby further enacted*, That if such land, sold as aforesaid, shall not be redeemed, agreeably to the above provision, the constable shall execute to the purchaser, a deed in the form following, *to wit*, Constable to execute a deed.

"Know all men by these presents, that I of in the county of in the state of Vermont, collector of taxes, of and for the said town of in said county, for the year by virtue of the laws of this state, relating to levying and collecting rates and taxes in the several towns in this state; for and in consideration of to me in hand, paid before the delivery hereof, by of the receipt whereof I do hereby acknowledge, have given, granted, and sold and by these presents do give, grant, sell and convey unto him the said his heirs and assigns forever, the following described piece or parcel of land, lying and being situate in said town of bounded as follows, to wit, he the said being the highest bidder for the same, at a public vendue legally notified and holden at the dwelling house of in said town of on the day of for the sale of lands in Form of deed.

ſaid town of belonging to delinquent, of ſaid rate or tax.

"To have and to hold the ſaid granted premiſes, with the appurtenances thereof, to him the ſaid his heirs and aſſigns, in fee ſimple, forever. And I the collector as aforeſaid, do in my ſaid capacity, agree to and with the ſaid his heirs and aſſigns, to warrant and defend the ſaid premiſes, to him the ſaid his heirs and aſſigns, againſt the lawful claims and demands of any perſon or perſons whomſoever.

"In witneſs whereof I have hereunto ſet my hand and ſeal the day of

"Signed, ſealed and delivered,
in preſence of ."

Which deed being acknowledged and recorded as the law directs, ſhall be good and ſufficient to convey the fee of ſaid land, to him, his heirs and aſſigns forever, againſt the perſon, his heirs and aſſigns, for whoſe rate or tax it was ſo ſold as aforeſaid.

Conſtables may collect without their town-

SEC. 9. *And it is hereby further enacted*, That every conſtable or collector, duly authoriſed to collect the ſtate or other rate or tax, ſhall have the ſame power and authority in any of the towns, pariſhes or diſtricts in this ſtate, as ſaid officers have in their own precincts, to levy and collect the reſpective taxes, from any perſon or perſons, whoſe polls or eſtate are in their liſt or rate-bill, and ſhall be allowed ſix cents per mile for their travel, and alſo ſhall and may levy and collect ſuch rates or taxes, or ſuch part thereof, as ſhall be due at any time after the expiration of their years, as well as before.

SEC. 10. *And it is hereby further enacted*, That if any conſtable or collector, ſhall neglect to collect and pay into the treaſury, any tax by the time preſcribed in his warrant, the

treaſurer aforeſaid, ſhall iſſue his extent to the ſheriff of the county, in which ſuch delinquent conſtable or collector ſhall live, requiring him to levy ſuch rate or tax, or the ſum remaining due thereof, of the goods, chattels and eſtate of the conſtable ſo neglecting, and every ſheriff to whom ſuch extent ſhall be directed, is hereby required, forthwith, to ſerve the ſame upon the goods, chattels or eſtate of ſuch conſtable, in like manner as conſtables are herein directed to ſerve their warrants, (giving fourteen days' notice of the ſale of ſuch conſtable or collector's goods or chattels, and if real eſtate ſhall be taken by ſuch ſheriff, he ſhall advertiſe and ſell ſuch eſtate in the ſame manner, and the ſame time of redemption ſhall be allowed, as is herein before provided in caſe of the ſale of lands by conſtables, for the payment of taxes,) and ſhall pay ſuch tax ſo collected into the treaſury, returning the overplus, if any be, to the conſtable or collector, after deducting the like coſts as in caſe of execution.

Treaſurer to iſſue his warrant againſt delinquent conſtables.

SEC. II. *And it is hereby further enacted*, That if the ſheriff ſhall make a *non eſt inventus* return on ſuch extent, the treaſurer iſſuing the ſame ſhall thereupn iſſue his extent, directed to the ſheriff as aforeſaid, againſt the goods or chattels of the inhabitants of the town, pariſh or diſtrict, in which ſuch conſtable or collector belongs, and ſuch ſheriff ſhall and may levy and collect the ſame as aforeſaid, of the goods or chattels of the ſelectmen, or any of the principal inhabitants of ſuch town, pariſh or diſtrict, adverti ſing the ſale fourteen days as aforeſaid; and the owner or owners of any goods, chattels or eſtate taken and ſold as aforeſaid, ſhall recover payment for the ſame of ſuch town, diſtrict or pariſh, as is provided in caſes of iſſuing executions a-

On a *non eſt* return the treaſurer to iſſue his warrant to the ſheriff againſt the inhabitants of the town.

gainſt towns or other communities, and ſuch conſtable or collector ſhall be accountable to ſuch town, diſtrict or pariſh, for ſuch ſum or ſums as he ſhall be ſo delinquent as aforeſaid, together with all coſts and charges that may accrue to ſuch town, pariſh or diſtrict, by reaſon of ſuch delinquency; and when any conſtable or collector, ſhall be delinquent as aforeſaid, and an extent ſhall be iſſued as aforeſaid, againſt ſuch town, pariſh or diſtrict, the ſelectmen of ſuch town, pariſh or diſtrict, ſhall immediately make a tax-bill ſufficient to pay the ſum due, with coſts which may ariſe, on the liſt of ſuch town, diſtrict or pariſh, and deliver the ſame, to the collector of the town, pariſh or diſtrict rates, other than the one ſo delinquent, to collect, or if there be no ſuch collector, then to ſuch perſon as they ſhall appoint, who ſhall be ſworn for that purpoſe, and ſuch collector ſhall have the ſame power, and be accountable in the ſame manner, as collectors of town taxes are. And if any ſuch ſheriff ſhall neglect or refuſe to execute any ſuch extent, delivered to him againſt any conſtable, collector, town, pariſh or diſtrict, or ſhall neglect or refuſe to return ſuch extent, or to account to the treaſurer iſſuing the ſame, for the ſum due thereon, within ſixty days from the time ſuch ſheriff ſhall receive ſuch extent, ſuch treaſurer ſhall iſſue his extent againſt ſuch ſheriff, directed to the high bailiff of the county in which ſuch ſheriff lives, who ſhall levy and collect the ſame, of the goods, chattels or eſtate of ſuch ſheriff, and the mode of notifying, advertiſing and ſelling, and the time of redemption ſhall be the ſame as herein before preſcribed, in caſes of delinquent conſtables, or for want of ſuch goods, chattels or eſtates, to commit ſuch ſheriff to the gaol of ſuch county, or if there

be no gaol in ſuch county, to the gaol of the next county, where there ſhall be a ſufficient gaol, and ſhall leave with the gaoler a copy of the extent, and the ſum due thereon, together with his fees; and the keeper of ſuch gaol, ſhall receive ſaid delinquent ſheriff, and him ſafely keep, until he pay the ſum due on ſuch extent, with the high-bailiff's fees and coſts of commitment, and ſhall be amenable for his eſcape, except when he eſcapes through the inſufficiency of the gaol, in which caſe the county in which ſuch ſheriff belongs ſhall be accountable, and the ſame county, ſhall have a right to recover ſuch ſum as they ſhall be liable to pay, in conſequence of ſuch eſcape, from ſuch delinquent ſheriff or his bonds men. And if any high-bailiff ſhall omit or neglect to diſcharge his duty herein as aforeſaid, he ſhall forfeit double the ſum contained in ſuch extent, to the treaſury to which ſuch tax was made payable, to be recovered with coſts by the treaſurer iſſuing ſuch extent, in an action of debt to be brought on this ſtatute, againſt ſuch high-bailiff, or againſt him and his bonds men, before any court of competent juriſdiction.

SEC. 12. *And it is hereby further enacted,* That when any town, pariſh, diſtrict or other community, ſhall grant a tax, as empowered by law, it ſhall be the duty of the ſelectmen, truſtees or aſſeſſors appointed for that purpoſe, to make out a rate bill of ſaid tax, apportioned to the ſeveral perſons of whom the ſame is to be collected, as the law directs, and apply to ſome juſtice of the peace of the ſame county for a warrant to collect ſaid tax, who is hereby required and empowered to iſſue ſuch warrant to the collector of taxes for ſuch town, pariſh, diſtrict or other community, and ſuch collector on receipt of ſuch rate bill, and war-

Collectors of town taxes, &c. their duty.

rant, ſhall have the ſame power, in all things, in collecting ſuch tax as is before in this act given to conſtables in the collection of ſtate taxes, and all collectors of taxes for towns, pariſhes, diſtricts or other communities, ſhall collect and pay the rates or taxes to them committed, to be collected, by ſuch time and to ſuch perſons as they ſhall be directed in their reſpective warrants, and if any collector ſhall not perform the truſt committed unto him, according to law, he ſhall be accountable for ſuch tax or ſuch arrearages thereof, ſo by him neglected to be collected and paid as aforeſaid, to the treaſurer, ſelectmen, truſtees, committee or any other perſon or perſons, who are legally empowered to receive the ſame, from the town, pariſh, diſtrict or other community granting ſaid tax, who are hereby empowered to demand ſuch arrearages from ſuch collectors, and on failure of payment to cite ſuch collector to appear before ſome juſtice of the peace, of ſome one of the adjoining towns, in the ſame county, to ſhow cauſe, why an extent ſhould not be iſſued againſt him for the arrearages of ſuch tax, which citation ſhall be ſerved at leaſt ſix days before the time appointed for the hearing of the ſame, and if it ſhall appear to ſuch juſtice, that ſuch collector has not performed his duty, agreeably to the warrant given him for the collection of ſaid tax, he ſhall iſſue an extent to the ſheriff of the county, or his deputy, or conſtable of ſuch town, if ſuch conſtable is not the collector, commanding him to collect ſuch ſums as ſhall be due, of the goods, chattels or eſtate of ſuch collector, and if the ſheriff, his deputy, or conſtable having ſuch extent, ſhall levy on the goods, chattels or eſtate of ſuch collector; the mode of notifying, advertiſing and ſelling, and the time of redemption ſhall

be the ſame as herein before preſcribed in caſes of delinquent conſtables in the collection of ſtate taxes, and for want of goods, chattels or eſtate of ſuch collector, to commit him to the gaol of the ſame county, or if there be no gaol in ſuch county, to the gaol of the next county where there ſhall be a ſufficient gaol, and the keeper of ſuch gaol ſhall be liable for eſcapes, and the county for the inſufficiency of the gaol, in the manner preſcribed in the eleventh ſection of this act.

Collector moving or dying, mode of proceeding.

SEC. 13. *And it is hereby further enacted*, That if any conſtable or collector of any town, pariſh, diſtrict or other community, ſhall remove out of the ſtate, or ſhall die after he has received a warrant and tax bill for the collection of any tax, ſuch collector, who ſhall remove, ſhall immediately, and the executor or adminiſtrator ſhall on demand, lodge ſuch warrant and tax bill with the clerk of ſuch town, pariſh, diſtrict or other community, with the monies that have been collected on ſuch tax bill, and not paid over as the law directs, and take his receipt therefor, and it ſhall be the duty of ſuch clerk to call a meeting of the inhabitants of ſuch town, pariſh, diſtrict or other community, to chuſe a new collector, which they are hereby empowered to do, and the ſaid clerk ſhall, after ſuch collector be ſworn, deliver him the warrant, tax bill and monies collected, which he ſhall have received, as aforeſaid, taking his receipt for the ſame; and ſuch collector ſhall have all the powers for the collection of ſuch tax, as the former conſtable or collector by law had, and ſhall be accountable for ſuch tax, which ſhall be uncollected, and ſuch monies as he ſhall have received of ſuch clerk, in the ſame way and manner as ſuch former collector by

law was, or would have been. And any conſtable or collector, removing as aforeſaid, or the executors or adminiſtrators of any deceaſed conſtable as aforeſaid, who ſhall not deliver over ſuch warrant, tax bill and monies collected thereon to ſuch clerk as aforeſaid, and not accounted for as aforeſaid, ſhall be liable to ſuch town, pariſh, diſtrict or other community for the whole amount of ſuch tax bill, and ſhall have no authority to collect of any perſon or perſons, whoſe names are on ſuch tax bill, any part of the arrearages which may be due, at the time of ſuch removal or deceaſe.

Collectors not liable for any miſtakes or illegality in any tax.

SEC. 14. *And it is hereby further enacted*, That no collector of any tax ſhall be liable to any action which may accrue on account of any miſtake, miſcharge or overcharge in the rate bill committed to him for the collection of ſuch tax; and if a recovery ſhall be had againſt the collector of a tax, granted, by any town, pariſh, diſtrict, or other community, empowered by law to grant any taxes, by reaſon of the want of power in ſuch community to grant ſaid tax, or of any illegality in granting the ſame, and found by the court or jury, trying ſuch action, and the town, pariſh diſtrict or other community granting ſaid tax, ſhall not therein indemnify ſuch collector, he ſhall have right of action to recover of ſuch town, pariſh, diſtrict or other community, all damages which he ſhall have thereby ſuſtained, any law, uſage or cuſtom to the contrary notwithſtanding.

Paſſed October 17, 1797.

CHAPTER XXVI.

An ACT *reducing into one, the ſeveral acts for* laying out, making, repairing *and* clearing highways.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That the ſelectmen of the ſeveral towns in this ſtate, ſhall have power, upon application of three or more freeholders of ſuch town, to lay out new highways, or alter old ones, as they ſhall judge proper, and alſo private roads, when it ſhall be found neceſſary, ſo that no damage be done to any perſon or perſons through whoſe lands ſuch road ſhall be laid, without due recompence from ſuch town as the ſelectmen and the parties intereſted ſhall agree, and if they ſhall not agree on the recompence to be made, the ſelectmen before they open ſuch ſhall tender to the owner or owners of ſuch land ſo much money as they the ſelectmen ſhall judge, an adequate recompence for the damage done by laying ſuch road, and if the owner or owners ſhall be diſſatisfied with ſuch recompence, he, ſhe or they may by complaint apply to any juſtice of the peace, of the ſame county, who is hereby empowered and required to grant a ſummons directed to the ſheriff or his deputy, commanding him to ſummons before him, not leſs than three, nor more than ſeven judicious and diſintereſted freeholders of the vicinity to appear before him on a certain day and time to be prefixed and the ſaid freeholders being duly ſworn to their impartiality and fidelity ſhall appraiſe the damages aforeſaid, and ſhall make return to the ſaid juſtice, at a time and place by him to be appointed, of their appraiſal, under their hands, or the hands of a major part of them with a ſtatement of their time and

Selectmen upon application to lay out or alter public and private highways.

To make compenſation for private damages.

expences, and it ſhall be the duty of the complainant or complainants to notify the ſelectmen or the major part of them, of the time the ſaid appraiſers will attend upon the buſineſs, giving at leaſt four days' notice, and of the time the ſaid appraiſers are to make their return, that they may appear before the ſaid juſtice and ſhow cauſe, if any they have, why ſuch appraiſal ſhould not be accepted, and ſuch juſtice ſhall make final order thereon and may tax either party with coſts as he ſhall think juſt, and may iſſue execution for damages and coſts, or coſts only, as in other caſes. And if any perſon ſummoned as aforeſaid, ſhall refuſe or neglect to attend he ſhall forfeit and pay one dollar to the uſe of any perſon, who ſhall ſue for the ſame to be recovered by action grounded on this ſtatute. And every high way or road which ſhall in future be laid out or opened ſhall be actually ſurveyed, and a ſurvey thereof made out, entered and recorded in the town clerk's office, where ſuch high way or road lies, (and for want thereof in the proprietors' clerk's office) aſcertaining the breadth, courſe and diſtance of ſuch road; and where there ſhall be a ſufficient allowance land in or adjoining any lot through which ſuch road ſhall be laid the owner ſhall not be entitled to any damages, but ſuch allowance land ſhall be ſet over by the ſame ſurvey bill as aforeſaid to the owner of ſuch lot in lieu of damages, any thing herein contained to the contrary notwithſtanding.

Selectmen refuſing, application may be made to the county court.

SEC 2. *And it is hereby further enacted*, That if on application of three or more freeholders, of the town or vicinity in which ſuch road is wanted to be laid out or altered, the ſelectmen ſhall refuſe or neglect to lay out or alter ſuch road, in that caſe it ſhall be lawful for thoſe who ſhall think themſelves aggrieved by

ſuch refuſal or neglect, to make application to the county court for the ſame, by petition, which petition ſhall be ſigned by three or more freeholders of the ſame town or vicinity as aforeſaid, and ſhall together with a citation to appear and ſhow cauſe why ſaid petition ſhould not be granted, be ſerved on one or more of the ſelectmen of ſuch town at leaſt twelve days before the ſitting of the court; and the county court ſhall have power to appoint a committee of three judicious, and diſintereſted free-holders from the adjoining towns, who ſhall view the premiſes, and if they find it neceſſary for the better accommodation of the public as well as individuals to lay out a new road, or alter one already laid out according to the nature of the caſe as ſet forth in ſaid petition, they ſhall proceed to ſurvey the ſame, as is in this act above directed, and if there is not ſufficient allowance land as aforeſaid, the ſaid committee ſhall aſſeſs the damages done to the property of any land-owner thereby, and return their doings to ſaid court, and the ſaid court, unleſs ſufficient cauſe be ſhown to the contrary, ſhall eſtabliſh ſuch road, as laid out by the aforeſaid committee, and make order to the ſelectmen for the payment of the damages aſſeſſed as aforeſaid, together with attending coſts and charges, out of the town treaſury of ſuch town, and if ſufficient cauſe ſhall be ſhown why the petition ſhould not be granted, the perſons applying as aforeſaid ſhall pay coſts and charges.

Court to appoint a committee to lay out.

SEC. 3. *And it is hereby further enacted*, That where the aforeſaid committee ſhall find ſufficient allowance land, in or adjoining any lot through which ſuch road ſhall be laid, the ſame ſhall be ſet over as is in this act before directed.

Allowance lands to be ſet over.

Roads laid thro' common land no damages to be allowed.

SEC. 4. *Provided always, and it is hereby further enacted*, That when any ſuch road as aforeſaid ſhall be laid through common or undivided land, or land belonging to any individual in any town in this ſtate which ſhall be unimproved and unincloſed at the time of laying out ſuch road, no damages ſhall be allowed therefor.

Select. men to aſſeſs a tax for repairing roads.

SEC. 5. *And it is hereby further enacted*, That the ſelectmen of each town, ſhall make and aſſeſs a tax on the liſt of the polls and rateable eſtates of the inhabitants of ſuch town, to the amount of four days, at leaſt, to be computed at ſixty-ſix cents per day, to each male perſon over twenty-one years of age, and under ſixty, (miniſters of the goſpel, the preſident, profeſſors, tutors and ſtudents of colleges, for the time being, and annual ſchoolmaſters excepted,) for the purpoſe of making and repairing high-ways and bridges in ſaid town, and if ſuch ſum ſhall be found inſufficient to make and repair ſuch high-ways and bridges, the inhabitants of ſuch town, at a meeting warned for that purpoſe, may vote ſuch further ſum for the ſame purpoſe, as they may judge neceſſary.

Exempts from taxes.

Shall divide their towns into high-way diſtricts.

SEC. 6. *And it is hereby further enacted*, That the ſelectmen of the ſeveral towns, ſhall divide their reſpective towns, into high-way diſtricts, for the purpoſe of repairing high-ways, and the ſame, from time to time, alter as they ſhall judge moſt convenient. And the ſeveral towns at their March meeting annually, ſhall chuſe one ſurveyor to each of ſaid diſtricts, whoſe duty it ſhall be to ſuperintend the laying out of the tax, which ſhall be raiſed as aforeſaid; and the ſelectmen ſhall annually, on or before the firſt day of May, deliver to the ſeveral ſurveyors of their reſpective towns, a rate or tax-bill, containing a

Surveyors of high ways to be choſen.

list of the names of all the persons who are taxed in their several districts, with the sum of their several taxes annexed to their names, with a warrant, signed by some justice of the peace, within such county, authorising such surveyors to collect said tax; and such selectmen shall take the several surveyors' receipts therefor. And it shall be the duty of the several surveyors after receiving said tax-bills, and warrants, to proceed to warn the people whose names are mentioned in their several tax-bills, at least three days before the time for doing the work, to work on the high-ways with such teams, carriages and tools, and at such place as said surveyors shall direct, the one half of which tax shall be paid, between the fifteenth day of May and the first day of July, and the other half between the fifteenth day of September, and the first day of November, annually. And the several towns at their annual meeting, in March, shall affix the price to be allowed for teams, carriages and tools. And also for materials, which may be necessary for the purpose aforesaid, and on neglect thereof, the said prices shall be affixed by the selectmen of such town.

Select-men to furnish them with a rate-bill before the first of May.

And take a receipt for the same.

Surveyor's duty.

Towns to ascertain the price of teams &c.

SEC. 7. *And it is hereby further enacted*, That if any person on being warned as aforesaid, shall neglect or refuse to work out his tax, to the acceptance of the surveyor, it shall be the duty of such surveyor, to levy and collect the tax in the same manner as constables are directed to collect state taxes. And such monies when collected, shall be laid out by such surveyor in repairing highways.

Persons neglecting to work out their tax surveyor may levy the same.

Provided always, That if any person shall suppose himself to be injured, by the levying of the tax as last mentioned, he may make complaint in writing to some justice of the

Persons aggrieved may apply to a justice.

Juſtice's duty.

peace of the ſame town, who ſhall grant a ſummons commanding ſuch ſurveyor to appear forthwith, and anſwer to ſaid complaint. And ſaid juſtice ſhall proceed to enquire into the nature and circumſtances of the caſe, and if he ſhall find that the party complaining is injured, he ſhall order the proceedings upon ſuch warrant to be ſtayed, and ſhall give the party complaining ſuch further time, as to him ſhall appear reaſonable, to work out his tax. And if it ſhall appear to the juſtice that the party complaining has no juſt cauſe of complaint, ſuch ſurveyor ſhall recover his legal coſts of travel, attendance and neceſſary witneſſes, and ſhall proceed to collect the tax as aforeſaid.

Surveyors to remove obſtructions

SEC. 8. *Provided always, and it is hereby further enacted*, That on extraordinary occaſions, as the repairing of bridges, and making paths in deep ſnows, or removing other obſtructions, which may require immediate remedy, it ſhall be lawful for the ſurveyors at any time, to warn the people of their reſpective diſtricts, forthwith, to work on ſuch roads or bridges. And if any ſurveyor after application to repair bridges, or make paths in deep ſnows, or remove other obſtructions as aforeſaid, ſhall neglect for more than the ſpace of twelve hours, to warn ſuch part of the inhabitants of the diſtrict to which he belongs, as he may think neceſſary, to remove any, or either of the obſtructions aforeſaid, he ſhall forfeit and pay the ſum of ten dollars, one moiety thereof to the treaſurer of the town, to be drawn out by the ſelectmen, and by them delivered over to, and appropriated by the next ſurveyor of ſaid diſtrict, in the ſame manner as monies ſo to be paid over by this act, are to be appropriated; and the other moi-

penalty for neglect.

ety, with coſts, to the perſon proſecuting the ſame to effect. And if any perſon or perſons whoſe names are in the rate bill of ſuch ſurveyor, after being by ſaid ſurveyor, warned to attend to any of the duties aforeſaid, ſhall neglect or refuſe to comply with ſaid requiſition, the perſon or perſons ſo neglecting or refuſing, ſhall forfeit and pay the ſum of three dollars, to be recovered and appropriated in the ſame manner as heretofore in this act directed, in caſe of the neglect of a ſurveyor. And the perſon or perſons ſo warned and laboring for any of the reaſons aforeſaid, ſhall be allowed the ſame wages per day, as is before given in this act, and if he or they be not in arrear for highway rates, the ſame ſhall be carried forward and credited to them, on the next ſucceeding rate.

Penalty on perſons refuſing to obey the ſurveyor

SEC. 9. *And it is hereby further enacted*, That the ſeveral ſurveyors of highways, ſhall keep fair and regular accounts of all the labor done, and monies laid out, in their reſpective diſtricts, and annually ſome time in the month of April, make returns to the ſelectmen of their reſpective towns, of the work which has been done, and the monies which have been collected and paid, within their ſeveral diſtricts. And if it ſhall appear that any part of their taxes is uncollected, or that any monies by them collected, are not laid out agreeably to this act, then it ſhall be the duty of ſuch ſurveyor, to pay the ſame over to ſuch ſelectmen, who ſhall deliver the ſame over, to the next ſurveyor in the ſame diſtrict, with the tax bill, to be by ſuch ſucceeding ſurveyor, laid out for the purpoſe of repairing high ways in ſuch diſtrict. And if the delinquent ſurveyors ſhall refuſe or neglect to pay over the monies that are uncollected, or are

Surveyors to keep regular accounts of the labor done and make return thereof to the ſelectmen, in April.

not laid out, ſuch ſelectmen may proceed with ſuch ſurveyors, in the ſame way and manner, as they are by law authoriſed to proceed with conſtables, or collectors, who are delinquent in collecting and paying town taxes committed to them to collect.

Survey. ors to return accounts of work when amounting to more than the tax.

SEC. 10. *And it is hereby further enacted*, That the ſeveral ſurveyors ſhall return to their reſpective ſelectmen, accounts of ſuch work as may be done by any perſon or perſons over and above their taxes, and the ſelectmen ſhall credit the ſame to the perſons who have done ſuch work, on their tax for the next year.

Selectmen to aſſeſs inhabitants who remove into town after liſt taken.

SEC. 11. *And it is hereby further enacted*, That when any perſon ſhall remove into any town in this ſtate, after the time of taking the liſt, it ſhall be the duty of the ſelectmen, and they are hereby empowered, to aſſeſs ſuch perſon in ſuch ſum, upon the liſt as to them ſhall appear reaſonable, and in juſt proportion with the other inhabitants of ſuch town.

Provided always, That where the perſon ſo removing into any town, ſhall produce to ſuch ſelectmen a certificate, under the hand of the ſurveyor of the diſtrict from which he removed, that he hath paid in ſuch diſtrict, his tax for the ſame year, or any part thereof, the ſelectmen ſhall tax him for no more, than in the juſt proportion of what he ſhall appear to be delinquent, in the diſtrict from which he removed.

Provided alſo, That when the perſon ſo removing into any town ſhall produce from under the hand of the ſurveyor of the diſtrict in ſuch town, to which he is ſo removed, a certificate of his having paid in ſuch diſtrict a highway tax for the ſame year, the amount of ſuch certificate, ſhall be credited on his tax, in the diſtrict in the town from which he removed.

Survey-ors to be accounta-able to ſelectmen for all omiſſions of duty :

SEC. 12. *And it is hereby further enacted*, That the ſurveyors of highways ſhall, ſeverally, be accountable to the ſelectmen of their reſpective towns, for all omiſſions of duty enjoined by this act, and ſhall be liable to pay all damages which may accrue to ſuch town, by their reſpective faults or neglects.

Towns accoun-able for all dam-ages which happen through inſuffic-iency of roads or bridges :

SEC. 13. *And it is hereby further enacted*, That if any ſpecial damage ſhall happen to any perſon or perſons, or to his, her or their teams or carriages, by means of any inſufficiency or want of repairs of any highway or public bridges, in any town within this ſtate, the party ſuſtaining ſuch damage, ſhall have right to recover the ſame, in an action on the caſe, againſt ſuch town, to be proſecuted before any court proper to try the ſame, together with coſts, and every ſuch town, ſhall be further liable to be fined for not repairing and keeping in repair the highways and public bridges in ſuch town, on indictment found by the grand-jury at the diſcretion of the county court, of the ſame county, in which ſuch town lies.

Bridges how built over ſtreams dividing towns :

SEC. 14. *And it is hereby further enacted*, That when it ſhall ſo happen, that a bridge ſhall be deemed neceſſary to be erected, upon any public road acroſs any river, creek or ſtream, between any two towns, ſuch towns may and they are hereby empowered reſpectively, to raiſe ſuch ſum or ſums, as ſhall, by ſuch towns be thought neceſſary, for their reſpective proportions of the expence of ſuch bridge. And in caſe ſuch towns do not agree upon ſuch proportion as aforeſaid, or upon the time or place, for erecting ſuch bridge, either town may, by petition, apply to the county court in the county in which ſuch towns are ſituated (but if ſaid towns li in different counties, the petition ſhall be addreſſ-

ed to the county court of the county in which the ſenior town lies) ſtating in ſaid petition, all the circumſtances in the premiſes; and the town ſo applying ſhall cauſe the adverſe town to be notified with a copy of ſuch petition, at leaſt twenty days previous to the ſeſſion of the court to which ſaid petition is addreſſed, and if upon a hearing of ſaid petition, the court ſhall be of opinion, that a bridge ought to be erected, they ſhall appoint three or more judicious, diſintereſted perſons, a committee to go on the premiſes, who ſhall, after taking into conſideration all the circumſtances, as well the abilities and advantages of ſuch town, as the place of erecting ſaid bridge, ſhall determine whether (and at what place) ſuch bridge ought to be erected. And alſo the proportion of the expence, which each town ſhall ſuſtain in erecting the ſame. And if upon examination, it ſhall appear to ſaid committee that any other adjoining town or towns ſhall be particularly benefited by ſuch bridge, ſuch committee ſhall aſſeſs ſuch town or towns ſo benefited, for the expence of building ſaid bridge, in proportion to the benefits which they will probably receive, the report of which committee, or the major part of them, under oath, made to the ſame court, either at the ſame, or the next ſeſſion thereof, ſhall be binding and concluſive between ſuch towns, unleſs juſt cauſe be ſhown to the contrary. And the court ſhall award and adjudge ſuch coſts as to them ſhall appear juſt and equitable. And if any ſpecial damage ſhall happen to any perſon or perſons, or to his, her or their teams or carriages by means of any inſufficiency or want of repairs of any ſuch bridge as aforeſaid, ſuch damage ſhall be borne by the reſpective towns, who ſhall neglect or refuſe to make ſuch repairs as afore-

ſaid, after being duly notified for that purpoſe, in the ſame proportion, which the erecting of ſuch bridge was borne; but if ſuch bridge was erected previous to the paſſing of this act, then ſuch damage ſhall be divided equally between the two towns adjoining ſuch bridge; and the expence of keeping in repair all ſuch bridges as aforeſaid, ſhall be in the ſame proportion as is herein before provided, in caſe damage ſhall happen.

Provided always No town ſhall be liable to pay the expence of building any ſuch bridge, until after the expiration of one year from the rendition of ſuch judgment as aforeſaid.

Provided alſo, That no town ſhall be liable to be aſſeſſed for the expence of building any ſuch bridge, unleſs they ſhall have been ſerved with a copy of ſuch petition as aforeſaid.

Surveyors may purchaſe at the expence of the town materials for repairing highways

SEC. 15. *And it is hereby further enacted*, That the ſurveyors of highways, ſhall have power to purchaſe, at the coſt and charge of their reſpective towns, all ſuch timber, plank and other materials, which ſhall be neceſſary for mending and repairing the highways, and public bridges in their reſpective diſtricts.

Selectmen to remove encroachments and nuiſances at the expence of the party making them

SEC. 16. *And it is hereby further enacted*, That if any perſon or perſons ſhall have incloſed any part of the highway, or ſhall have erected any fence or other encroachment, or made any obſtruction, or put any nuiſance therein, or ſhall continue ſuch incloſure, fence, encroachment or nuiſance thereupon, the ſelectmen of the town in which ſuch offence ſhall be committed, ſhall order ſuch perſon or perſons to remove ſuch fence or other encroachment, within ſuch convenient time as to them ſhall appear reaſonable, not exceeding ſix months, and in caſe ſuch fence or other encroachment be not removed, within the time limited by ſuch ſelectmen, giving notice as aforeſaid, ſuch ſelectmen are hereby empowered, to remove

ſuch fence, or other encroachments, at the expence of the perſon or perſons who erected, cauſed, or continued the ſame, which expence ſuch ſelectmen may recover of the perſon or perſons ſo offending, with juſt coſts of ſuit, by an action of the caſe to be brought for that purpoſe, before any court proper to try the ſame. And if any perſon or perſons offending as aforeſaid, ſhall, after ſuch removal, again erect ſuch fence or encroachment on ſuch highway, or ſhall take in or incloſe a greater or leſs quantity thereof, he or they ſo offending, ſhall forfeit and pay the ſum of ſeven dollars, for every ſuch offence, one moiety thereof to the town treaſury, and the other moiety to ſuch ſelectmen, with coſt of proſecution, and likewiſe pay the expence of again removing the ſame, in manner aforeſaid; in either of which caſes, no appeal or review ſhall be allowed.

Penalty on perſons for laying obſtructions in the highways.

SEC. 17. *And it is hereby further enacted*, That if any perſon or perſons, ſhall wilfully fell any trees, lay any timber, or place any obſtructions or other nuiſance in any highway within this ſtate, ſo as to obſtruct, hinder or impede the paſſing in ſuch highway, ſuch perſon ſo offending, ſhall forfeit and pay a fine not exceeding ſeven dollars, to be recovered by complaint made to any juſtice of the peace within the county, the one half of ſaid fine to be paid to any perſon who ſhall proſecute the ſame to effect, and the other half to the town in which the offence is committed. And no perſon ſhall preſume wantonly or illegally to hurt or damnify any highways, cauſeways, or bridges within this ſtate, by deſtroying or taking away any of the plank, poſts, timber, or rocks thereof, or by digging any pits therein, for gravel, clay or any other cauſe whatever, on penalty of forfeiting a ſum not exceeding thirty dol-

Penalty for damnifying highways

lars, to be recovered as aforesaid, before any court proper to try the same, and such person or persons so offending, shall be liable to pay all damages sustained by the town, or an individual, in consequence of any such offence.

Justices of the peace may order removal of nuisances and encroachments in highways in unorganized towns.

SEC. 18. *And it is hereby further enacted*, That when encroachments and nuisances are made on the roads and highways, in any unorganized town within this state, on complaint made to any justice of the peace within the county in which such town lies, the said justice shall issue his warrant to any freeholder of such town, for the removal of such encroachment, or nuisance, in the same manner as the selectmen of organized towns, are by this act directed and empowered to do, and such freeholder shall have the same power, as the selectmen by this act have, for the removal of encroachments and nuisances.

Indictments and informations for not repairing highway the legal certainty required.

SEC. 19. Whereas in indictments at common law, against any town for not repairing and keeping in repair their highways, great exactness and precision are required in describing the length and width of such part of the highway, as is out of repair, which is very difficult and unnecessary within this state, Therefore,

It is hereby further enacted, That in all indictments or informations exhibited against any town, for not repairing and keeping in repair their highways, it shall be sufficient in such indictment, to describe that it is an highway leading from some particular place, to some other particular place therein described, without describing exactly the number of rods or feet thereof, which are out of repair, any law to the contrary notwithstanding.

SEC. 20. *And it is hereby further enacted*, That the surveyors of highways shall hereafter be considered as beginning their office the

Survey. ors when to enter on their office and duty.

first day of May following their appointments in March, and to continue in office for the term of one year, from the time of beginning said office.

Former acts repealed.

SEC. 21. *And it is hereby further enacted*, That every act or parts of acts containing any thing in the purview of this act, shall be and are hereby repealed.

Provided nevertheless, That all rights, remedies, fines, penalties and forfeitures incurred or accruing under any former act, shall remain in the same condition as if this act had not been made.

CHAPTER XXVII.

An ACT *relating to* fences, *and defining the duty of* fence-viewers.

Fences what to be deemed legal.

SECTION 1. IT *is hereby enacted by the General Assembly of the state of Vermont*, That all fences of four feet and half high, and in good repair, consisting of rails, timber, boards or stone, and also brooks, rivers, ponds, creeks, ditches and hedges, or other matter or thing equivalent thereto, in the judgment of the fence-viewers, within whose jurisdiction the same shall lie, shall be deemed legal and sufficient.

Partition fences to be maintained by the occupants in equal halves.

SEC. 2. *And it is hereby further enacted*, That where the land or meadow of any two or more persons shall join each other, each of them shall make, and maintain, a just proportion of the division or partition fence between them, except such persons as shall chuse to let their lands or meadows lay vacant and open; and in case any disputes shall arise concerning the part or proportion of the fence to be made,

or maintained by either party, the ſame ſhall be ſettled by the fence-viewers of ſuch town or place, where ſuch lands or meadows ſhall be ſituated, or any two of them, whoſe deciſion ſhall be concluſive. And if any perſon ſhall neglect or refuſe to make and maintain his or her part or proportion of ſuch fence, or ſhall permit the ſame to be out of repair, every ſuch perſon ſhall be liable to, and ſhall pay all and every ſuch damages as ſhall accrue to his or her neighbor or neighbors thereby, to be appraiſed and aſcertained by the fence-viewers of the ſame town or place, or any two of them, not intereſted therein, to appraiſe and aſcertain the true and real value of ſuch damages, and to be recovered with coſts, in any court having cognizance of the ſame. And in caſe the party ſo neglecting or refuſing, ſhall continue ſuch neglect or refuſal, for the ſpace of one month after notice and requeſt, to make or repair ſuch fence, then and in every ſuch caſe, it ſhall be lawful for the party injured or aggrieved thereby, to make or repair all the ſaid fence, at the expence of the party ſo neglecting or refuſing, to be recovered with coſts of ſuit, in any court having cognizance of the ſame. And in caſe any perſon or perſons who ſhall have made his, her or their proportion of any ſuch fence, ſhall conclude or be diſpoſed to throw up his, her or their ſaid lands or meadow for common feeding, or to let the ſame lay open, he, ſhe or they ſhall give three months' notice thereof, to the perſon or perſons in poſſeſſion of the lands or meadow adjoining, and if ſuch fence ſhall be removed without giving ſuch notice, or before the expiration of the ſaid three months, then and in every ſuch caſe, the perſon or perſons ſo removing, or cauſing ſuch fence to be

By whom diſputes to be ſettled.

Remedy againſt the perſon neglecting.

removed, ſhall be liable to make good all ſuch damages, as the party injured and aggrieved by ſuch removal ſhall ſuſtain thereby, to be recovered as aforeſaid, with coſts. And if the perſon or perſons in poſſeſſion of the land or meadows ſo adjoining, after notice as aforeſaid, and within three month aforeſaid, ſhall elect to have the ſaid fence continued, the ſame ſhall not be removed, and the perſon ſo diſpoſed to throw up his, her or their ſaid lands or meadows, for common feeding, ſhall have right to the value of his proportion thereof of the perſon continuing to improve, and if they cannot agree on the value of ſaid fence, the ſame ſhall be aſcertained by the fence viewers, in the manner preſcribed in the fourth ſection of this act, and on neglect of payment, after demand actually made, for the ſpace of thirty days, the ſaid party ſo ceaſing to improve, ſhall recover the full value aſcertained as aforeſaid, of the perſon or perſons of the lands ſo adjoining by action of the caſe with coſts.

Fences impaired by floods, &c. how rebuilt.

SEC. 3. *And it is hereby further enacted*, That in all caſes where any partition fence ſhall be injured, deſtroyed, or carried away by floods or freſhets, every perſon, who ought by law to make or repair the ſame, ſhall make or repair the ſame, or his or her juſt proportion thereof, within ten days after he or ſhe ſhall be thereunto required, by any perſon intereſted therein, and if any perſon ſhall refuſe or neglect, to make or repair his or her proportion of ſuch fence, for the ſpace of ten days after ſuch requeſt as aforeſaid, then and in every ſuch caſe, it ſhall be lawful for the party injured or aggrieved thereby, to make or repair all the ſaid fence, at the expence of the party, ſo neglecting or refuſing, and he

or ſhe ſhall and may recover the ſame, with coſts, in any court having cognizance thereof.

SEC. 4. *And it is hereby further enacted*, That when one of the owners of lands adjoining, ſhall have begun to improve before the other, and ſhall have built a fence on the diviſional line between them, and afterwards the other ſhall improve, and ſhall be advantaged thereby, the occupant, leſſor or proprietor of ſuch land, laſt begun to be improved, ſhall pay for one half of the partition fence between them, according to the value of it, at the time he ſhall begin to improve, ſuch value to be aſcertained, (in caſe they cannot agree) by the fence-viewers, on application of either party, the other being notified to attend at the time of making ſuch appraiſemnt, which ſhall be ſet down and expreſſed in writing, and be ſigned by the fence-viewers, making the ſame, and delivered by them to ſuch of the parties, as will receive the ſame. And if ſuch occupant, leſſor or proprietor as aforeſaid, ſhall after notice as aforeſaid, and demand made for the ſpace of ſixty days neglect to pay for a moiety of ſuch fence, the proprietor of ſuch fence, or perſon who made the ſame, ſhall and may recover the ſum ſo aſcertained, by ſpecial action on the caſe againſt ſuch occupant, leſſor or proprietor, notified and requeſted as aforeſaid.

When one owner of common land improves before the other, mode of proceeding.

SEC. 5. *And it is hereby further enacted*, That it ſhall be the duty of all fence-viewers, on requeſt to view all fences, in the ſame town or place, for which they are choſen, and every fence by them, or the major part of them, adjudged good and ſufficient, ſhall be conſidered as ſuch, to all intents and purpoſes—And in all caſes where the line upon which partition fence is to be made, or divided is the boundary line of one or more towns, or part-

Fence-viewers' duty.

ly in one town, and partly in another town, a fence-viewer or fence-viewers ſhall be taken from each town.

Penalty for neglect of.

SEC. 6. *And it is hereby further enacted*, That if any fence-viewer ſhall neglect to attend and do any of the duties enjoined upon him by law, he ſhall forfeit and pay the ſum of five dollars for every ſuch neglect, to any perſon who will ſue for the ſame, with coſts.

When they make diviſion to give certificate, which ſhall be recorded.

SEC. 7. *And it is hereby further enacted*, That in all caſes before mentioned, in which fence-viewers ſhall make a diviſion of fence, or ſhall eſtimate the value of any fence made or repaired, they ſhall certify the ſame under their oath of office, which diviſion or appraiſal being recorded in the book of records belonging to ſuch town or place, by the clerk thereof; if the original be loſt an atteſted copy from ſuch records ſhall be uſed inſtead thereof, and ſhall be of equal validity with the original.

Their fees.

SEC. 8. *And it is hereby further enacted*, That each fence-viewer ſhall be allowed ſeventy-five cents per day, for his ſervices; forty cents for an half day; and twenty-five cents for any time leſs than an half day. And in all caſes, except where the ſame is otherwiſe ordered and directed, the fees ſhall be paid by the parties intereſted, and in all caſes where the party or parties whoſe duty it is to pay the fence-viewers for their ſervices, ſhall neglect to pay the ſame, for the ſpace of thirty days, after the ſervice done, they may recover double fees, by action on the caſe, with coſts, and each fence-viewer may be a witneſs for, or againſt another fence-viewer, who was concerned with him in the ſame buſineſs or ſervice.

Paſſed February 8, 1797.

CHAPTER XXVIII.

An ACT *relating to* pounds, eſtrays *and* loſt goods.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That there ſhall be made and maintained in every organized town, diſtrict or pariſh in this ſtate, in ſome convenient place or places, a good and ſufficient pound or pounds, not exceeding three, with a ſufficient lock and key to each, at the expence of ſuch town, diſtrict or pariſh, for the impounding and reſtraining of all horſes, cattle, ſheep, ſwine, or other creatures liable to be impounded, or reſtrained. And if any town, diſtrict, or pariſh, ſhall not be provided with ſuch pound or pounds, within one year from the paſſing of this act, ſuch town, diſtrict or pariſh, ſhall forfeit and pay to any perſon who will ſue for the ſame, thirty dollars; and the ſame ſum for every year afterwards, that ſuch town, diſtrict or pariſh ſhall be deſtitute as aforeſaid, and may on indictment be fined, in a ſum not exceeding twenty dollars, in either of the caſes aforeſaid, to the uſe of the county in which ſuch town, diſtrict or pariſh lies. And if any town, diſtrict, or pariſh, ſhall not have ſuch pound or pounds, any perſon deſirous of impounding any creature or creatures taken up damage-feaſant, or otherwiſe liable to be impounded, may impound them in his own barn, or other incloſure, taking care immediately to notify the owner and all concerned of the place where, and the cauſe for which they are impounded.

Pounds to be provided and maintained by towns.

Penalty for neglect.

Provided nevertheleſs, That if any town, diſtrict or pariſh have granted, or ſhall grant to any particular diſtrict, liberty, at their own coſt and charge, to make and maintain a

May give liberty to particular diſ-

tricts to maintain pounds.

pound or pounds for their conveniency, (which grant ſuch towns are hereby empowered to make) the ſaid pound or pounds, ſhall be made and maintained by the ſaid diſtrict, and the town making ſuch grant ſhall not be liable to any fine for the want of ſuch pound or pounds in ſuch diſtrict, or any defect thereof, but ſuch diſtrict ſhall be liable in manner as aforeſaid.

Selectmen on application to call meetings of pound diſtricts.

SEC. 2. *And it is hereby further enacted*, That upon application of three or more perſons, reſiding within any pound diſtrict, in any town in this ſtate, to the ſelectmen of ſuch town, to warn a pound diſtrict meeting, it ſhall be their duty to poſt up a notification at ſome public place in ſaid diſtrict, mentioning the time, place and buſineſs of ſaid meeting, and the inhabitants of ſaid diſtrict, when met, are hereby fully authoriſed and empowered to appoint a moderator and clerk of ſaid meeting, and lay or aſſeſs a tax on the liſt of the polls and rateable eſtate of the inhabitants of ſaid diſtrict, for the purpoſe of making and keeping in repair a diſtrict pound or pounds; and are furthermore empowered to appoint a collector to collect ſaid diſtrict tax, which collector ſhall have all the power in collecting ſaid diſtrict tax, as the collectors of town taxes have in their reſpective towns.

Who may aſſeſs a tax for making and repairing pounds.

Creatures doing damage may be impounded.

SEC. 3. *And it is hereby further enacted*, That it ſhall and may be lawful for any perſon to impound any ſwine, neat cattle, horſes, ſheep or other creatures that ſhall be found damage feaſant, or doing damage in his incloſure. And it ſhall be the duty of the pound keeper, to cauſe the creatures impounded, to be relieved with meat and drink, ſuitable for ſuch creatures, and upon neglect, ſuch perſon ſhall be liable to an action, by the owner of

Duty of pound keeper.

ſuch creatures, for all damage ſuſtained thereby.

SEC. 4. *And it is hereby further enacted*, That it ſhall be the duty of any perſon or perſons impounding any creature or creatures, taken damage feaſant, forthwith, or within twenty-four hours, to notify the owner or owners thereof, if known, by leaving word at his, her or their dwelling houſe, in writing, or by giving him, her or them perſonal notice thereof, and alſo to notify him, her or them, to appear at the dwelling houſe of the impounder within twenty-four hours and appoint one perſon and the impounder ſhall appoint another, to appraiſe the damage done by ſaid creature or creatures. And if the appraiſers ſhall not agree, they may appoint a third. And in caſe the owner or owners of ſuch creature or creatures, taken damage feaſant, and notice given ſo as aforeſaid, ſhall neglect or refuſe to appoint an appraiſer, or the appraiſers when choſen by the owner and impounder as aforeſaid, cannot agree upon a third perſon when neceſſary, the party aggrieved may apply to ſome juſtice of the peace who can by law judge between the parties in civil cauſes, who ſhall appoint one or more appraiſers, as the caſe may be. And it ſhall be the duty of the ſaid appraiſers, to make out a certificate of the damages by them aſſeſſed, and forthwith tranſmit the ſame, with their fees, to the pound keeper, and no perſon ſhall have his, her or their creatures let or taken out of the pound, until he, ſhe or they ſhall ſatisfy ſaid damages, ſo aſſeſſed, and coſts, nor ſhall they be detained after ſuch payment is made. And every perſon neglecting to give notice as aforeſaid, ſhall for each creature ſo impounded, forfeit and pay a fine, with coſts of proſecution, of fifty cents for every twenty

Perſons impounding creatures taken damage feaſant, their duty.

four hours he ſhall ſo neglect, one half to the pound keeper, and the other half to the perſon who ſhall proſecute the ſame to effect, in any court proper to try the ſame.

Owners may replevy.

SEC. 5. *And it is hereby further enacted*, That the owner or owners of any creature or creatures impounded, may in all caſes, at any time, while the creature or creatures remain in the pound, replevin the ſame, if he, ſhe or they ſee cauſe, giving ſufficient bond with good ſureties, in a ſum equal to double the value of the creatures impounded, to the adverſe party, to be taken by the authority iſſuing the writ of replevin, for the ſufficiency of which the ſaid authority is hereby made reſponſible, conditioned, "That he, ſhe or they proſecute his, her or their replevin to effect, before ſome juſtice of the peace (if the value of the creature or creatures do not exceed ſeven dollars) within twenty days;" but if the creature or creatures impounded, ſhall exceed that ſum, then, "That he, ſhe or they, ſhall proſecute his, her or their replevin to effect, at the county court, next to be holden within and for the ſame county, and to pay all ſuch damages, coſts and charges as ſhall be awarded againſt him, her or them."

Mode of proceeding.

Perſons neglecting to replevy or redeem their creatures, penalty for.

SEC 6. *And it is hereby further enacted*, That if any perſon or perſons, whoſe creature or creatures ſhall be impounded, and he, ſhe or they notified as aforeſaid, ſhall not within forty-eight hours after ſuch notice to him, her or them given, either replevy or redeem his, her or their creature or creatures out of the pound, every ſuch perſon or perſons ſhall forfeit ſeventeen cents per head, for each creature, ſo by him, her or them ſuffered to remain in pound, and the ſame ſum per day, for every day after the firſt day, he, ſhe or they ſhall ſuffer ſaid creatures to continue in

pound, beſides paying all neceſſary charges, to the pound-keeper, in providing, and giving meat and drink to ſuch creature or creatures, ſo continued in pound, which forfeitures ſhall belong, one half to the pound-keeper, and the other half to the town treaſury, to be recovered in the name of the pound-keeper, before any court proper to try the ſame.

SEC. 7. *And it is hereby further enacted,* That if any creature or creatures, liable to be taken damage feaſant as aforeſaid, ſhall be taken damage feaſant, and impounded in any town, diſtrict or pariſh, the owner or owners whereof is or are unknown, the impounder ſhall immediately, or at leaſt within twenty-eight hours, after impounding ſuch creature or creatures, ſet up a notification deſcribing the natural and artificial marks of ſuch creature or creatures, in ſome public place in ſuch town, diſtrict or pariſh, and in the two next adjoining towns, from which ſuch creatures moſt probably came; and that if no owner or owners ſhall appear and claim ſuch creature or creatures, within thirty days after the publication of ſuch notification as aforeſaid, the ſaid impounder may ſell the creature or creatures ſo impounded, at public vendue to the higheſt bidder. And after ſatisfying the damages done by ſuch creature or creatures, to be aſcertained by two or more fence-viewers, of ſuch town, diſtrict or pariſh, and paying the neceſſary fees and charges of impounding, keeping, advertiſing, and ſelling the ſame, together with any expence for fence viewing, if the ſame ſhall be neceſſary, and clerk's fees for making an entry as hereafter directed, the ſaid impounder ſhall deliver and pay over the overplus of ſuch ſale, to the treaſurer of ſuch town, diſtrict or pariſh, to be there kept

Creatures impounded and owners unknown proceedings therein.

for the uſe of the owner; and if the owner ſhall not appear within one year, and make demand of ſuch overplus, the ſame ſhall belong to the uſe of ſuch town, diſtrict or pariſh.

Fence to be found legal before ſale of creatures impounded.

SEC. 8. *Provided neverthelefs, and it is hereby further enacted*, That the fence incloſing the premiſes, out of which ſuch creature or creatures, was, or were impounded, ſhall be found legal by two fence-viewers before any ſale ſhall be made as aforeſaid; and if the owner or owners of ſuch creature or creatures, ſhall, within the ſaid thirty days, come and demand the ſame, he, ſhe, or they ſhall receive the ſame, on ſatisfying the damages and paying the neceſſary fees and charges accrued by this act. And the ſaid impounder ſhall immediately after ſuch ſale as aforeſaid, procure the natural and artificial marks of ſuch creature or creatures ſo ſold, to be entered in the town, diſtrict or pariſh clerk's office, together with an account of all the fees, charges, coſts and expences which may have accrued, together with the ſum or ſums of money for which ſuch creature or creatures was or were ſold reſpectively.

Owner demanding within thirty days, and paying charges, to receive ſuch creatures.

Marks of creatures charges of ſale, &c. entered clerk's office.

SEC. 9. *And it is hereby further enacted*, That if any horſe, horſes or horſe kind being ſuffered to go at large on the commons, ſhall break into any common field or particular incloſure, and be there found damage-feaſant, and impounded accordingly, the owner or owners thereof, if known, ſhall pay all the damages and neceſſary expences of impounding as aforeſaid, notwithſtanding the inſufficiency of the fence to ſuch incloſure.

Horſes taken up damage-feaſant and impounded, owners liable for damages.

Provided, That the damages ſhall only be eſtimated to the party impounding for the laſt time ſuch horſe, horſes or horſe kind, ſhall break into ſuch field or incloſure. But if the owner or owners of ſuch horſe or horſes, or

horſe kind ſhall not be known, the ſame ſhall be proceeded againſt as eſtray.

SEC. 10. *And it is hereby further enacted*, That if the owner or keeper of any ſtone horſe or ſtallion, of two years old or upwards, ſhall wilfully or negligently ſuffer ſuch ſtone horſe or ſtallion to run at large, out of the incloſed ground of ſuch owner or keeper, ſuch owner or keeper, ſhall forfeit and pay a ſum not exceeding forty dollars, nor leſs than ten dollars; but if the ſaid horſe be under two years old and over one, he ſhall pay a ſum not exceeding forty dollars, nor leſs than five dollars, at the diſcretion of the court, before whom the ſame is tried, with coſts, one moiety thereof to the perſon who ſhall ſue for, and proſecute the ſame to effect, and the other moiety to the treaſury of the town in which ſuch horſe ſhall be found running at large, and ſuch ſtone horſe or ſtallion ſo found running at large ſhall be liable to be impounded, and the perſon impounding the ſame ſhall immediately, or within forty eight hours, give notice to the owner or keeper, if known, and if ſuch owner or keeper ſhall neglect or refuſe for three days, after ſuch notice, to pay to the perſon ſo impounding ſuch damages as ſhall be certified under the hands of three judicious and diſintereſted free-holders, to be appointed by ſome juſtice of the peace, together with the expence of ſuch free-holders, and all coſts and charges of impounding and keeping ſuch ſtone horſe or ſtallion, it ſhall be lawful for the perſon ſo impounding, to ſell ſuch ſtone horſe or ſtallion, at public vendue to the higheſt bidder, firſt notifying ſuch ſale, at leaſt four days, in ſome public place in the town, diſtrict or pariſh in which ſuch ſtone horſe or ſtallion ſhall be impounded, to ſatisfy the damages and other expences, coſts and charges incur-

Owners of ſtallions ſuffered to run at large, penalty on.

red as aforeſaid. And the overplus, if any there be, depoſit in the treaſury of ſuch town, diſtrict or pariſh, there to be kept for the purpoſe, and inure to the uſe of ſuch town, diſtrict or pariſh, as is provided in the twelfth ſection of this act. And every other perſon who ſhall have ſuſtained damage by ſuch ſtone horſe or ſtallion running at large, ſhall be entitled to recover the ſame by an action of the caſe, with double coſts of ſuit. But if the owner or keeper of ſuch ſtone horſe or ſtallion be not known, the perſon ſo impounding ſhall proceed with ſuch ſtone horſe or ſtallion as eſtray.

Reſcue and pound breach penalty for.

SEC. 11. *And it is hereby further enacted*, That if any perſon or perſons ſhall reſcue any ſtallions, horſes or horſe kind, neat cattle, ſheep or ſwine, or any other creature or creatures from the poſſeſſion or cuſtody of any perſon, driving or being about to drive them to pound, or ſhall reſiſt them therein, the perſon ſo offending ſhall for every ſuch offence, forfeit and pay the ſum of ten dollars, beſides damages, to the perſon injured. And if any perſon ſhall make any pound breach, or in any way directly or indirectly convey, or deliver any of the creatures aforeſaid, out of any pound without lawful authority ſo to do, ſuch perſon or perſons for every ſuch offence, ſhall forfeit and pay the ſum of twenty five dollars, and ſhall be liable to the perſon impounding, for all damages he ſhall have ſuſtained thereby, the one half of either of the ſums laſt aforeſaid, to the uſe of the town in which ſuch offence is committed, and the other half to the perſon who ſhall proſecute the ſame to effect. And if any perſon convicted of either of ſaid offences, ſhall be unable to pay either of ſaid ſums and coſts, the court in its diſcretion before whom the conviction may be had, may

aſſign ſuch perſon in ſervice to make ſatisfaction therefor. And if ſuch reſcue or pound breach be committed by the ſervants or children of the owner or owners of ſuch creature or creatures, the owner or owners, ſhall pay all forfeitures and be liable to all damages, as though he or they had done the ſame in perſon.

Provided, That all complaints for any breach of this act, ſhall be proſecuted within nine months after the offence is committed, and not after.

Loſt goods and ſtrays mode of proceeding with.

SEC. 12. *And it is hereby further enacted*, That the perſon finding any money or goods of the value of three dollars, or finding and taking up any ſtray beaſt, whereof the owner is not known, ſhall within ſix days, from the time of finding or taking up as aforeſaid, give notice thereof in writing to ſome juſtice of the peace, who ſhall thereupon by his order in writing, to one or more diſintereſted perſon or perſons, not exceeding three, commanding him or them to appraiſe and particularly deſcribe the value of ſuch goods or beaſts, ſo found or taken up, and in caſe money ſhall be found to mention the amount thereof, and the place where the ſame was found, and make duplicate certificates thereof, under oath, one of which ſhall be by him or them returned to the clerk of the town or place, in which ſuch money, goods or beaſt were ſo found, or taken up, and the other to the perſon finding or taking up, and the clerk ſhall enter the ſame on record, and the perſon finding or taking up, ſhall immediately ſet up a copy of ſuch certificate, in two of the moſt public places in ſuch town, diſtrict or pariſh, and if the money ſo found, or the value of the goods or beaſts ſo found and taken up, exceed five dol-

lars, and the owner or owners ſhall not appear and redeem the ſame, by paying all neceſſary charges, within thirty days after ſetting up ſuch copy of ſaid certificate, the perſon ſo finding or taking up, ſhall alſo ſet up a copy as aforeſaid, in ſome public place in two of the adjoining towns, diſtricts or pariſhes, at leaſt, or publiſh the ſame in ſome news-paper printed in the county, and for want thereof in ſome news-paper moſt generally circulated through the county, for three weeks ſucceſſively, and if the owner or owners ſhall not appear within one year from the time the certificate being entered with the town clerk as aforeſaid, then the charges incurred by the perſon finding or taking up, the juſtice's, clerk's and appraiſer's fees, and the keeping previous to the appraiſal, being adjuſted and allowed by the ſaid juſtice, and being deducted from the amount of the money found, or from the appraiſed value of the goods or ſtray beaſts ſo found, the perſon ſo finding ſhall pay a ſum equal to one moiety of the reſidue to the treaſurer of the town or place where ſuch money, goods or ſtray beaſt was or were found, to be for the uſe of ſuch town or place, and the perſon ſo finding ſhall keep the money, goods or beaſt ſo found to his own uſe, but if the owner appear at any time before the expiration of one year after notice given to the clerk as aforeſaid, and ſhall tender to the perſon finding, a reaſonable ſum, for the keeping, charges and fees incurred, to be adjuſted by the juſtice who appointed the appraiſers and in caſe none were appointed, then by any juſtice of the peace to whom the perſon finding may immediately apply, or if he doth not immediately apply, then to be adjuſted by any juſtice of the peace, to whom

the owner may apply, in ſuch caſe the owner ſhall be entitled to his property again.

Perſons neglecting to notify, to receive nothing for trouble and charges.

SEC. 13. *And it is hereby further enacted*, That if any perſon finding any money or goods as aforeſaid, or taking up any ſtray beaſt as aforeſaid, ſhall neglect to notify in manner aforeſaid, within the time before deſcribed, or ſhall neglect to apply to a juſtice of the peace for appraiſement as aforeſaid, ſuch perſon ſo neglecting, ſhall not be entitled to receive any thing for his trouble or charges in keeping or advertiſing, or other proceedings with ſuch money, goods or ſtrays, and ſhall further forfeit and pay to any perſon who will ſue for the ſame, the value of the money, goods or ſtray beaſts, for every ſuch neglect or default.

Eſtray dying, perſon finding to recover coſts and charges of owner.

SEC. 14. *And it is hereby further enacted*, That if the ſtray beaſt found and proceeded with according to law, ſhould happen to die, not through careleſſneſs, or negligence of the perſon finding and keeping, then the perſon finding, if ever he ſhould diſcover the owner of ſuch ſtray beaſt, ſhall be entitled to recover againſt him all ſuch reaſonable coſts and charges as he may have been at, before the death of ſuch creature.

Clerk omitting to comply with this act, to forfeit &c.

SEC. 15. *And it is hereby further enacted*, That if any clerk ſhall omit to do the duty enjoined upon him by this act, he ſhall forfeit and pay to any perſon, who will ſue for the ſame, the ſum of one dollar, to the uſe of the perſon ſuing, and all damages to the party injured.

Perſon taking down notification to forfeit &c.

SEC. 16. *And it is hereby further enacted*, That if any perſon ſhall take down any notification, ſet up as aforeſaid, until the expiration of one year from the time of ſetting up the ſame, or until the purpoſe for which ſuch notification was ſet, ſhall have been fully an-

ſwered, every perſon ſo offending, ſhall forfeit and pay, to any perſon who will ſue for the ſame, to his uſe the ſum of ſeven dollars.

Neat cattle not to be taken up from firſt of April to firſt of November, unleſs, &c.

SEC. 17. *And it is hereby further enacted*, That no perſon ſhall, from the firſt day of April, to the firſt day of November yearly, take up any neat cattle as a ſtray or proceed with them as ſuch, within ſaid term, though the owner be not known, unleſs ſuch beaſt be taken damage feaſant, or doing damage in ſome incloſure.

Fees.

SEC. 18. *And it is hereby further enacted*, That the fees for notifying the clerk, ſhall be twenty-five cents; and twenty-five cents for every advertiſement poſted up, and if in an adjacent town it ſhall be forty cents; and the clerk's fees ſhall be twenty-five cents for receiving and recording the notification. And the juſtice ſhall be allowed for appointing appraiſers, twenty-five cents; for receiving the appraiſal, twenty-five cents; for recording the ſame and adjuſting the charges, fifty cents; and the perſon keeping any ſtray beaſt ſhall be paid the cuſtomary price therefor.

Paſſed March 2, 1797

CHAPTER XXIX.

An ACT *for the relief of* idiots *and* diſtracted *perſons.*

Judge of probate to appoint guardians for idiots.

SECTION I. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That the ſeveral judges of probate, within their reſpective diſtricts, ſhall have power, from time to time, (upon requeſt made by the friends, or relations of any idiot, *non compos*, or lunatic, or diſtracted perſon, or upon the application of any reſpectable freeholder

of the town in which ſuch idiot, *non compos*, or lunatic, or diſtracted perſon lives or is an inhabitant) to direct the ſelectmen and civil authority of ſuch town to make inquiſition thereinto, and if the perſon ſaid to be *non compos*, an idiot, lunatic or diſtracted perſon ſhall be adjudged by the ſelectmen and civil authority aforeſaid (or the major part of them) to be incapable of taking care of him or herſelf, and ſhall certify the ſame under their hands to the judge of probate, the ſaid judge is hereby empowered to appoint ſome ſuitable perſon or perſons to be guardian or guardians to ſuch idiot, lunatic, *non compos* or diſtracted perſon, directing and empowering ſuch guardian or guardians to take care of the perſon and eſtate, both real and perſonal of ſuch perſon, and to make a true and perfect inventory of the ſaid eſtate, to be returned into and filed in the probate office in ſuch diſtrict.

On inquiſition found by ſelectmen and civil authority.

Guardians to make an inventory of their eſtate.

SEC. 2. *And it is hereby further enacted*, That the judges of probate in their reſpective diſtricts are fully authoriſed and empowered upon the complaint of any heir, creditor or other perſon, having lawful right or claims in expectancy to the eſtate of any idiot, lunatic, *non compos*, or diſtracted perſon, as well as the guardian or guardians, to proceed with any perſon or perſons ſuſpected of concealing, embezzling or conveying away any of the money, goods or chattels of ſuch idiot, lunatic, *non compos*, or diſtracted perſon, in the ſame way and manner, as is by law preſcribed for perſons ſuſpected of concealing, embezzling or conveying away the money, goods or effects of deceaſed perſons.

Perſons ſuſpected of embezzlement, how to proceed againſt.

SEC. 3. *And it is hereby further enacted*, That the guardian or guardians appointed as aforeſaid, ſhall improve frugally and without

Guardians to improve their eſ-

tates and account for the profits.

waſte or deſtruction, the eſtate of the idiot, *non compos*, lunatic or diſtracted perſon, and apply the annual income and profits thereof, for the comfortable maintenance and ſupport of the ſaid idiot, *non compos*, lunatic or diſtracted perſon, and alſo of his or her houſehold or family (if any ſuch there be,) and the ſaid guardian or guardians are hereby empowered to ſettle accounts, receive and (if need be) to ſue for and recover all juſt debts due to ſuch idiot, lunatic, *non compos* or diſtracted perſon, from any perſon or perſons whomſoever, and to manage, improve, divide or make partition of ſuch real eſtate in as full and ample a manner as the ſaid idiot, lunatic, *non compos* or diſtracted perſon might or could, were they reſtored to the full uſe of their rational faculties; and ſhall alſo be ſubject to the payment of all juſt debts, owing by ſuch perſon, which were contracted before their diſtraction, out of their perſonal eſtate, or in caſe that be inſufficient, then out of the real eſtate, in the way and manner executors or adminiſtrators are empowered to make ſale of the real eſtates of deceaſed perſons. And in caſe the income or improvement of the perſonal and real eſtate of ſuch perſons ſhall not be ſufficient to ſuppert them, the judge of probate may licence and authoriſe the guardian or guardians to make ſale of the whole or part of the real eſtate of ſuch perſon for that purpoſe, as occaſion may require. And in caſe any ſuch idiot, *non compos*, lunatic or diſtracted perſon ſhall be reſtored to the uſe of his or her reaſon, the reſidue and remainder of the eſtate real and perſonal, ſhall be returned and delivered to him or her, or in caſe of his or her death, to his or her heirs, executors or adminiſtrators, the guardian or guardians having firſt ſuch reaſonable allowance out of the

To ſettle accounts.

May ſell real eſtate in certain caſes.

The ward being reſtored what to be done.

ſame for his or their charge and trouble as the judge of probate ſhall order.

Judges of probate may appoint guardians for the children of idiots, &c.

SEC. 4. *And it is hereby further enacted*, That the judges of probate in their reſpective diſtricts, may alſo, as occaſion may require, appoint guardians for the children of lunatics, idiots, *non compos* or diſtracted perſons, in the ſame way and manner, as though their parents were naturally dead.

Guardians to give bonds.

SEC. 5. *And it is hereby further enacted*, That the guardian or guardians appointed as aforeſaid, ſhall give bonds to the judge of probate; ſhall make and exhibit an inventory; ſhall render an account of the proceeds, and expenditures of the eſtate; ſhall have his, her or their accounts examined, audited and paſſed, and on refuſal or neglect to make and exhibit ſuch inventory or to render ſuch account, ſhall be liable in the ſame manner as guardians appointed for minors are, in an act, entitled "An act for the probate of wills and ſettlement of teſtate and inteſtate eſtates," and the judge may compel ſupplemental ſecurity in the ſame manner, and the ſureties of ſuch guardians ſhall have the ſame relief, as is provided in the act laſt above recited.

Paſſed March 2, 1797.

CHAPTER XXX.

An ACT *relative to* petitions *prefered to the* General Aſſembly.

Private petitions prefered to the general aſſembly.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That in future all private petitions, prefered to the legiſlature, at their ſtated or adjourned ſeſſion, ſhall be entered and filed in the ſecretary of ſtate's office on or before the

when to be entered.

eighth day of the ſitting of the ſaid legiſlature to which it is prefered, incluſively; and any petition prefered or entered in the ſecretary's office after that time, during the ſeſſion of the ſaid legiſlature, ſhall be refered over to the next ſtated or adjourned ſeſſion.

Petitions for land taxes to be ſigned by more than half of the proprietors or be advertiſed.

SEC. 2. *And it is hereby further enacted*, That no petition hereafter prefered to the legiſlature, praying for a tax on lands, for making and repairing roads and building bridges, which ſhall not be ſigned by the owners of more than one half of all the lands in the town, on which ſuch tax is prayed, ſhall be heard, unleſs notification of ſuch petition being prefered, ſigned by one or more of the petitioners, requiring all perſons concerned to appear, if they ſee cauſe, at the next ſeſſion of the legiſlature, and make their objections to the prayer thereof, to be publiſhed in the news-papers printed in Rutland and Windſor for the ſpace of three weeks ſucceſſively, the laſt time of which publication ſhall not be leſs than three weeks previous to the time of preſering ſuch petition.

For acts of inſolvency, &c. to be adverti-ſed.

SEC 3. *And it is hereby further enacted*, That all perſons prefering petitions to the general aſſembly for acts ſuſpending proſecutions; acts of inſolvency, or for liberation from impriſonment, when at the ſuit of individuals, ſhall notify their intention of making ſuch application, by publiſhing the ſame, with the time, place and nature of ſuch intended application, in the news-papers printed in Windſor and Rutland, three weeks ſucceſſively, the laſt time of which publication, ſhall not be more than ſixty nor leſs than twenty days before ſuch ſeſſion of aſſembly.

Provided, proof of perſonal notice in writing, at leaſt twenty days before ſuch ſeſſion of aſſembly, to the perſon or perſons, againſt

whoſe right ſuch privilege is claimed, ſhall be conſidered as good notice without advertiſing as aforeſaid; and that any petition prefered for any of the cauſes aforeſaid, without notice as in this act before directed, ſhall be diſmiſſed.

For new trial, coſts allowed thereon.

SEC. 4. *And it is hereby further enacted*, That after the riſing of the preſent ſeſſion, if any perſon or perſons ſhall prefer any petition to the general aſſembly, praying for a new trial at law, or in equity, between party and party, and the prayer thereof ſhall not be finally granted by act of legiſlation, the petitionee or petitionees who ſhall have been regularly cited, and who ſhall appear before the general aſſembly, either by themſelves, their agent or attorney, ſuch petitionee or petitionees ſhall make up their bill of coſts for their travel and attendance, and the travel and attendance of their witneſſes, legally ſummoned, and all depoſitions and other neceſſary papers procured in conſequence of ſuch citation, in the ſame manner that bills of coſt are made up in the county courts, except inſtead of term fee, the petitionee ſhall receive fifty cents per day for his actual attendance. And the clerk of the general aſſembly certifying ſaid bill of coſt legally taxed as aforeſaid, the petitioner or petitioners ſhall pay the ſame to the petitionee or petitionees, to be recovered by an action of debt on this ſtatute.

Paſſed March 6, 1797.

CHAPTER XXXI.

An ACT *relating to the office and duty of* Secretary of State.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That the ſecretary of ſtate ſhall be pro-

vided with a ſeal of his office, which ſeal ſhall have the ſame device as the ſeal of the ſtate, with the word VERMONT at the bottom of the ſeal, and with the words SECRETARY OF STATE, around the edge of the ſaid ſeal; and the ſecretary of ſtate for the time being, is hereby directed to procure ſuch ſeal, as ſoon as may be at the expence of the ſtate, and the ſame ſhall thereafter be and remain in the office of ſecretary of ſtate.

Secretary of ſtate to have a ſeal of office.

SEC. 2. *And it is hereby further enacted*, That all the acts, laws, papers and records belonging to this ſtate, except the particular records and papers of the governor and council, ſhall be depoſited and kept in the office of the ſecretary of ſtate. And it ſhall be the duty of the ſecretary of ſtate at all times, to keep a regular and open office, for the tranſaction of the buſineſs of his office, and he ſhall atteſt and carefully record in proper books, to be by him kept for that purpoſe, at the expence of the ſtate, all the acts and laws of this ſtate, charters of incorporation, and all grants and charters of land made within this ſtate and give copies of the ſame for reaſonable fees when required, and ſhall do and perform all other acts and things proper for a ſecretary of ſtate; and all copies of records, or other things belonging to his ſaid office, by him atteſted, as ſecretary of ſtate, with the ſeal of his ſaid office thereto affixed, ſhall at all times be a ſufficient authentication of the ſame, and full faith and credit ſhall be given to ſuch authentication.

To keep the acts, laws, &c. of the ſtate.

To atteſt and record laws charters, &c.

His authentication valid.

SEC. 3. *And it is hereby further enacted*, That the ſecretary of ſtate ſhall be duly ſworn to the faithful diſcharge of his duty and ſhall have power from time to time to appoint one or more deputies, as he ſhall think proper, for

To be ſworn.

whoſe acts and doings, ſhe ſhall be reſponſible, and it ſhall be the duty of the ſaid ſecretary of ſtate to attend by himſelf or his deputy, every ſtated and adjourned ſeſſion of the legiſlature, and on default thereof, ſhall forfeit and pay a fine not exceeding three hundred dollars, to be ſued for and recovered in the name of the treaſurer of the ſtate for the uſe of the ſtate, together with coſts, before the ſupreme court of judicature, by bill, plaint, or information.

May appoint deputies.

Shall attend the legiſlature.

SEC. 4. *And it is hereby further enacted*, That it ſhall be the duty of the ſecretary of ſtate, to make all ſuch ſtatements in writing, as ſhall, from time to time be required of him by the legiſlature, or by the governor and council.

To make ſtatements, when required by the legiſlature, or governor and council.

SEC. 5. And whereas ſeveral grants of land and charters of incorporation, have heretofore been atteſted and recorded by the ſecretary to the governor and council, the record of which ſtill remains in his office, and whereas it is found convenient that the ſame ſhould be lodged in the office of the ſecretary of ſtate—

Preamble

Therefore,

It is hereby further enacted, That it ſhall be the duty of the ſecretary of ſtate, as ſoon as may be after the paſſing of this act, to call on the ſecretary to the governor and council, for the book or books containing ſuch records, and the ſecretary to the governor and council is hereby directed to deliver over all ſuch books and records to the ſecretary of ſtate, within two months after application made by the ſecretary of ſtate as aforeſaid.

Secretary of ſtate to call on the ſecretary of council for records of charters.

SEC. 6. *And it is hereby further enacted*, That all copies from the records of ſuch charters and grants made by the ſecretary of the governor and council as aforeſaid, atteſted by the ſecretary of ſtate, with the ſeal of his office affixed, as is herein before provided by this

To give copies of charters which ſhall be deemed evidence;

act, ſhall be deemed a ſufficient authentication of the record of the ſame, and ſhall be admitted as evidence of ſuch charters and grants in any court within this ſtate.

Paſſed March 3, 1797.

CHAPTER XXX II.

An ACT *for the diſtribution of* laws, journals *and other* public papers.

State printer to deliver laws, journals, &c. to the ſeveral ſheriffs and take receipts.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That it ſhall be the duty of the printer or printers, who ſhall or may print the acts, laws and journals of the general aſſembly of this ſtate, to convey the ſame to the ſheriffs of the ſeveral counties within this ſtate, taking their receipts for the ſame, which receipts ſhall be produced to the auditor of accounts againſt this ſtate, previous to his allowing the accounts of ſuch printer or printers.

Sheriffs how to diſtribute laws, journals and other public papers.

SEC. 2. *And it is hereby further enacted*, That it ſhall be the duty of the ſheriffs of the ſeveral counties within this ſtate, upon the receipt of ſuch acts, laws or journals as aforeſaid, and all other public papers, proclamations and warrants, that ſhall be committed to them by order of the general aſſembly, or by the governor of this ſtate, for the time being to diſtribute ſuch acts, laws, journals and proclamations to the town clerks of the ſeveral towns, within their reſpective counties, or in the abſence of ſuch town clerk to a juſtice of the peace, or one of the ſelectmen of ſuch town, taking his receipt for the ſame, and ſhall deliver all warrants from the governor to the officer to whom the ſame ſhall be directed, or to one of the ſelectmen of the town in his

abſence, within the time limited by law, or within four weeks, next after ſuch acts, laws, journals, proclamations, warrants or other public papers ſhall be delivered to them as aforeſaid, if no time ſhall be limited by law: and alſo to deliver all warrants from the treaſurer of this ſtate, or from the county treaſurer, to the firſt conſtables or collectors of ſtate taxes in the ſeveral towns in ſuch county, within the times aforeſaid. And upon the neglect or refuſal of any ſheriff to deliver ſuch acts, laws, journals, proclamations, warrants or other public papers as aforeſaid, within the times aforeſaid, ſhall for every ſuch neglect or refuſal, forfeit and pay to the treaſury of the county where ſuch ſheriff belongs, the ſum of twenty dollars with coſts of proſecution, to be recovered by action of debt, before any court proper to try the ſame, by the ſtate's attorney of the county. And no ſheriff ſhall be allowed pay for ſuch ſervices until he ſhall produce ſuch receipt as aforeſaid, to the auditor of accounts againſt this ſtate. And the ſheriffs of the ſeveral counties within this ſtate, for the diſtribution of each and every packet containing the laws or journals of one ſeſſion, or other public proclamations, warrants or papers for which it becomes neceſſary to make a ſeparate diſtribution, ſhall be entitled to receive from the treaſury of this ſtate, except for the diſtribution of warrants for county taxes which ſhall be paid out of the reſpective county treaſuries, the following ſums, *namely*—

The ſheriff of Bennington county, four dollars.

Their fees.

The ſheriff of Windham county, five dollars and fifty cents.

The ſheriff of Windſor county, ſix dollars.

The ſheriff of Rutland county, ſix dollars.

The ſheriff of Orange county, ſix dollars.

The ſheriff of Addiſon county, four dollars and fifty cents.

The ſheriff of Chittenden county, five dollars.

The ſheriff of Caledonia county, ſix dollars.

The ſheriff of Franklin county, five dollars.

SEC. 3. *And it is hereby further enacted*, That the following officers ſhall be entitled to receive one copy of the laws paſſed at each ſeſſion of the legiſlature, printed at the expence of this ſtate (except the reviſed laws paſſed this preſent ſeſſion) *namely*,

Whom to be delivered

The governor, lieutenant governor, treaſurer, each councillor, each judge and clerk of the ſupreme, county, probate and diſtrict courts; each ſheriff, high bailiff and marſhal, each ſtate's attorney, each juſtice of the peace, each town clerk for the uſe of the town, each ſenator and repreſentative in congreſs; and there ſhall be delivered to the ſecretary of ſtate to be lodged in his office, for the uſe of the ſtate, five copies, to the ſecretary of the council to be lodged in his office, for the uſe of the council, three copies, and to the clerk of the houſe of repreſentatives, for the uſe of the houſe, five copies. And the journals of the houſe of aſſembly, when printed, ſhall be diſtributed as follows, *namely*—One copy to the governor, one to the lieutenant governor, one to the treaſurer, one to each member of council and houſe of repreſentatives, one copy to each of the judges of the ſupreme court, and one copy to each town clerk for the uſe of the town; and five copies to the ſec-

retary of ſtate; three to the ſecretary of council, and five to the clerk of the general aſſembly, for the uſe of the ſtate, council and general aſſembly.

Paſſed March 7, 1797.

CHAPTER XXXIII.

An ACT *relating to* debts *and* taxes, *due and payable to the* ſtate.

SECTION I. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That all and every ſum or ſums of money which are, or hereafter may be due, and payable to the treaſury of this ſtate, whether the ſame be on contract, or for taxes, or otherwiſe, ſhall be paid with intereſt, at ſix per cent. per annum, to be computed and recovered, from, and after the paſſing of this act, or from the time ſuch ſum or ſums ſhall become due and payable; and the treaſurer, collectors of rates or taxes, and every other perſon authoriſed by law to receive any ſum or ſums of money in behalf of this ſtate, is, and are hereby required to take notice hereof, and govern themſelves accordingly.

Debts due to the ſtate to be on contract.

Paſſed March 8, 1797.

CHAPTER XXXIV.

An ACT *appointing* Notaries Public, *and declaring their* office *and* duty.

SECTION I. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That the clerks of the ſupreme court of judicature, and the clerks of the ſeveral county courts within this ſtate, ſhall be

Clerks of ſupreme and county courts to be notaries public.

notaries public within this ſtate, which ſaid notaries public ſhall hold their office during their continuance in their reſpective offices, and no longer, to whoſe proteſtations, atteſtations and other inſtruments of publication, due faith and credence ſhall be given.

Their atteſtations to have full faith and credit.

Provided always, That every ſuch notary public ſhall, previous to his executing ſaid office of notary public, give bond before one of the judges of the court to which he is clerk, with ſufficient ſureties to the treaſurer of the ſtate, for the time being, in the ſum of one thouſand dollars, *conditioned*, for the faithful diſcharge of his ſaid office; which bond ſhall be returned to the treaſurer aforeſaid; and ſhall alſo be ſworn to the due diſcharge of his duty, a record of which oath ſhall be made in the office of ſecretary of ſtate; and ſhall alſo provide for themſelves a notorial ſeal, which ſhall be affixed to their inſtruments of publication.

To give bond to the treaſurer of the ſtate.

To be under oath.

To have a ſeal.

SEC. 2. *And it is hereby further enacted*, That the ſeveral notaries public ſhall be furniſhed by the ſecretary of ſtate, under the ſeal of his office with a liſt of the names of the judges of the county court, judges of probate, ſheriff, high-bailiff and juſtices of the peace of the county in which ſuch notaries public ſhall reſpectively reſide, within one month after their appointment.

Secretary of ſtate to furniſh them with the names of judges and juſtices of their counties.

SEC. 3. *And it is hereby further enacted*, That every notary public ſhall and may demand and receive ſuch fees for their ſervices as ſhall be allowed by law.

Paſſed March 7, 1797.

CHAPTER XXXV.

An ACT *directing the mode of taking* inquiſition *on the* body *of a perſon found* dead, *by* caſualty *or* violence.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That when any juſtice of the peace ſhall be certified of the dead body of any perſon, ſuppoſed to have come to his or her death by caſualty, or violence, found or lying within his county, he ſhall cauſe a jury of inqueſt to be ſummoned, to appear before him at a certain time and place, to enquire how, and in what manner the perſon ſo found dead, came to his death. And the number of jurors to be ſummoned ſhall be fifteen in all, and they ſhall have the qualifications of petit jurors attending the county courts, and ſhall be inhabitants of the town or place in which the dead body is found, or of that and the adjacent towns, as the juſtice may order. And the warrant or warrants for ſummoning them, ſhall be directed to the ſheriff of the county or to a conſtable of the town or place from which ſuch jurors are to be ſummoned, and in ſuch warrant ſhall be ſpecified the number of jurors to be ſummoned, in ſuch town or place; and the officer to whom any ſuch warrant is directed and delivered, is hereby empowered and directed, forthwith to execute the ſame, and to repair to the place where the dead body is at the time mentioned, and make return of the warrant with his doings thereon, unto the ſaid juſtice who iſſued the ſame. And twelve or more of the jurors returned ſhall be ſworn in view of the body, and the juſtice ſhall give them a charge upon their oaths, to declare of the death of the perſon, whether he died of felony, or of miſchance, or accident; and if of

Juſtices of the peace to take inqueſts on bodies found dead by caſualty.

Mode of taking.

Jury to be ſummoned.

How ſummoned.

Their duty:

felony, whether of his own or of another; and if of the felony of another, who were principals, and who were acceſſaries, with what inſtrument, he was ſtruck or wounded, and ſo of all prevailing circumſtances that may come by preſumption; and if he died of his own felony, then to enquire of the manner, means or inſtrument, and of all circumſtances concerning it; and if he died by miſchance or accident, whether by the act of man, and whether by hurt, fall, ſtroke, drowning or otherwiſe; to enquire of the perſons who were preſent, the finders of the body, his relations or neighbors, whether he was killed in the ſame place where he was found; and if elſewhere, by whom and how he was brought from thence, and of all circumſtances relating to the ſaid death. And the jury being charged, ſhall ſtand together, and the juſtice ſhall cauſe proclamation to be made for all perſons who can give evidence, how and in what manner the perſon then and there lying dead, came to his death, to draw near and they ſhall be heard.

Juſtice to ſummon witneſſes and grant compulſory proceſs.

SEC. 2. *And it is hereby further enacted*, That every juſtice of the peace is further empowered to ſummon, and if neceſſary to grant compulſory proceſs, for the appearances of witneſſes, and to adminiſter an oath to ſuch witneſſes, and the teſtimony of ſuch witneſſes ſhall be drawn up in writing and ſubſcribed by them, and if the teſtimony of any witneſs or witneſſes charge any perſon with killing, or of being in any way inſtrumental to the death of the perſon, ſo found dead, the juſtice ſhall bind ſuch witneſſes, by recognizance, in a reaſonable ſum for their perſonal appearance, at the next ſupreme court of judicature, to be holden within and for the ſame county, there to give evidence accordingly; and if any ſuch witneſs ſhall refuſe to recognize as aforeſaid,

To recognize the witneſſes in certain caſes.

Witneſſes refuſing

the juſtice ſhall and may commit ſuch witneſs to the common gaol of the county. may be commit.

SEC. 3. *And it is hereby further enacted*, That the jury after having viewed the body, heard the evidence, and made all the enquiry within their power, ſhall draw up and deliver unto the juſtice their verdict, upon the death under conſideration, in writing under their hands, and the juſtice ſhall ſet his hand thereto. And the juſtice ſhall return to the next ſupreme court of judicature holden in the ſame county, the inquiſition, written evidence, and recognizance (if any) by him taken. Verdict to be in writing and ſigned by the jury and the juſtice. The juſtice to return the ſame to the ſupreme court.

SEC. 4. *And it is hereby further enacted*, That if any ſheriff or conſtable ſhall unneceſſarily fail of executing any warrant directed and delivered to him as aforeſaid, or of returning the ſame as aforeſaid, he ſhall forfeit the ſum of ſeven dollars. And every perſon ſummoned as a juror as aforeſaid, that ſhall without reaſonable excuſe therefor, fail of appearance, he ſhall forfeit the ſum of ſeven dollars. And the forfeitures aforeſaid, ſhall be recovered by action of debt, before any juſtice of the peace in the county in which the ſame ſhall accrue, and ſhall be one moiety to the uſe of the proſecutor, and the other moiety to the uſe of the county. Penalty on conſtable or ſheriff for neglect of duty. Penalty on jurors

SEC. 5. *And it is hereby further enacted*, That every perſon who ſhall ſerve as a juror on ſuch inquiſition, ſhall be entitled to receive out of the county treaſury of the ſame county, the ſum of fifty cents; and a certificate under the hands of the juſtice preſiding at ſuch inquiſition, mentioning the number and names of the perſons who ſerved as jurors ſhall be ſufficient authority to the ſaid treaſurer, to pay the ſame. And the ſaid juſtice ſhall be allowed ſuch ſum as the court to which ſuch inquiſition ſhall be returned ſhall Jurors' fees. Juſtices' fees.

direct, and draw an order therefor on the ſaid county treaſurer.

Juſtice to ſecure the perſon killing for trial.

SEC. 6. *And it is hereby further enacted*, That upon an inquiſition found before any juſtice of the peace of the death of any perſon by the unlawful act of another, he ſhall ſpeedily cauſe the perſon or perſons killing, or being any way inſtrumental, to the death, to be apprehended, examined and ſecured for trial.

SEC. 7. *And it is hereby further enacted*, That the following forms ſhall be uſed in the caſes to which they apply.

Forms of proceſs.

Warrant for ſummoning the Jury of Inqueſt.

State of Vermont, }
county, ſs. } To the ſheriff of the county of his deputy, or either conſtable of in ſaid county— Greeting.

By the authority of the ſtate of Vermont you are hereby required to ſummon fifteen good and lawful men of ſaid county, to appear before me, one of the juſtices of the peace of ſaid county, at in the town of in ſaid county, on day of at of the clock noon, then and there to enquire upon the view of the body of there lying dead, how, and in what manner he came by his death. Fail not herein at your peril. Dated at this day of

Juſtice Peace.

Form of the oath to be adminiſtered to the jurors.

You ſolemnly ſwear by the ever living God, that you will diligently enquire and due preſentment make, in behalf of this ſtate, how, and in what manner who lies here dead, came to his death, and that you will deliver up to me one of the juſ-

tices of the peace of this county, a true inqueſt thereof, according to ſuch evidence as ſhall be laid before you, and according to your knowledge—So help you God.

Form of the oath to be adminiſtered to the witneſſes.

You ſolemnly ſwear by the ever living God, that the teſtimony which you ſhall give to this inqueſt, concerning the death of here lying dead, ſhall be the truth, the whole truth, and nothing but the truth—So help you God.

Form of the Inquiſition.

State of Vermont, }
R. ſs. } An inquiſition taken at within the ſaid county of R. the day of in the year of our Lord before Eſq. one of the juſtices of the peace in ſaid county, upon the view of the body of there lying dead by the oaths of [here name the jury,] good and lawful men, who being ſworn and charged to enquire for the ſaid ſtate when, how and by what means the ſaid came to his death, upon their oaths do ſay, [then inſert how, where, when and by what means, with what inſtrument he was killed; and if it appears that he was murdered by a perſon known, then the inquiſition ſhall be concluded thus] and ſo the jurors aforeſaid upon their oaths aforeſaid, do ſay, that the ſaid in manner and form aforeſaid, the aforeſaid then and there of his malice aforethought, did kill and murder, againſt the peace and dignity of the ſtate of Vermont, and the laws of the ſame.

[If it appears to be ſelf murder, then the inquiſition ſhall conclude thus,]

And ſo the jurors aforeſaid upon their oaths aforeſaid, do ſay, that the ſaid manner and form aforeſaid, then and there oluntarily and feloniouſly, as a felon of himſelf, did kill and murder himſelf, againſt the peace and dignity of the ſtate of Vermont.

[If it appears that the death was by misfortune or miſchance, the inquiſition muſt conclude thus,]

And ſo the jurors aforeſaid, upon their oaths aforeſaid, do ſay that the ſaid in manner aforeſaid, came to his death by misfortune or miſchance.

[If the death was occaſioned innocently by the hands of any other perſon, the inquiſition muſt conclude thus,]

The jurors aforeſaid, upon their oaths aforeſaid, ſay the aforeſaid D. H. the aforeſaid by misfortune, and contrary to the will of the ſaid D. H. in manner and form aforeſaid did kill and ſlay.

In witneſs whereof the ſaid jurors have hereunto ſet their hands the day and year aforeſaid.

L. M.
N. O. &c. &c.

In witneſs of all before written, the ſaid juſtice hath hereunto ſet his hand the ſame day and year.

A. B. Juſtice Peace.

Paſſed February 27, 1797.

CHAPTER XXXVI.

An ACT *to prevent the* ſpreading *of the* ſmall pox.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That if any perſon or perſons in any town or diſtrict in this ſtate, ſhall be infected with the ſmall pox, it ſhall be the duty of the ſelectmen of ſuch town or diſtrict, or the major part of them, on notice thereof immediately to provide a place, as remote from inhabitants as can conveniently be had, and remove ſuch infected perſon or perſons to the place ſo provided, if, in the opinion of the phyſician attending, him, her or them, it can be done with ſafety, and without endangering life; and if a removal ſhall be thought dangerous, ſuch perſon ſhall remain, and in all ſuch caſes it ſhall be the duty of the ſelectmen as aforeſaid, to take the moſt prudent meaſures to prevent the ſpreading of the diſeaſe. And the ſelectmen of any town or diſtrict, in which there ſhall be any ſuch infected perſon, are hereby directed to procure a phyſician or phyſicians and nurſes, as well as neceſſaries for ſuch infected perſon, as the nature of the caſe may require, at the expence of ſuch infected perſon, if he or ſhe ſhall have ſufficient eſtate to defray ſuch expences, otherwiſe at the expence of the town or diſtrict, to which ſuch perſon belongs, if within this ſtate; and if ſuch perſon ſhall not be an inhabitant of this ſtate, and ſhall not be of ability to pay ſuch expence, the ſame ſhall be paid out of the treaſury of the town or diſtrict, in which ſuch perſon ſhall be ſick with ſuch diſeaſe.

Selectmen to provide places for ſuch as are infected with the ſmall pox.

To employ phyſicians and nurſes.

SEC. 2. *And it is hereby further enacted*, That the ſelectmen of any town or diſtrict within this ſtate, or a major part of them,

May grant licence to inoculate.

with the advice and conſent of the civil authority of ſuch town or diſtrict, ſhall, and may, from time to time, on application to them made, grant a licence for one or more houſes to be erected or uſed for the purpoſe of inoculating perſons with the infection of the ſmall pox, in ſuch town or diſtrict, under ſuch regulations as they ſhall think proper, provided the conſent of the inhabitants of ſuch town or diſtrict can be previouſly obtained, at a town or diſtrict meeting legally warned and holden for that purpoſe ; and the ſelectmen as aforeſaid, with the advice of the civil authority as aforeſaid, may licence one or more phyſicians, as they ſhall think proper, to take care of, and ſuperintend ſuch houſes, and the phyſician or phyſicians ſo licenced ſhall give bond to the treaſurer of ſuch town or diſtrict, in the ſum of one thouſand dollars, for the faithful diſcharge of the truſt repoſed in him or them, and that they will take every precaution in their power to prevent the ſpreading of the diſorder, and that they will not inoculate or ſuffer any perſon to have the ſmall pox in any other place, than the houſe or houſes licenced as aforeſaid.

Appoint phyſicians who ſhall give bonds.

SEC. 3. *And it is hereby further enacted*, That it ſhall be the duty of the ſelectmen, or a major part of them, who ſhall licence as aforeſaid, to make ſuitable regulations in writing to prevent the ſpreading of the infection, a copy of wich ſhall be lodged in the town or diſtrict clerk's office, and two or more copies, as they ſhall judge proper, ſhall be by them poſted up in the moſt public places in ſuch town or diſtrict, there to remain during ſuch licence, and if the ſelectmen of any ſuch town or diſtrict, ſhall neglect or refuſe to make ſuch regulations, or to furniſh or poſt up ſuch copies, every of the ſelectmen ſo neglecting

Selectmen to make regulations in writing.

penalty for neglect.

or refuſing, ſhall forfeit and pay a ſum not exceeding one hundred dollars, to be recovered by action or information, before the county court of the county where the offence is committed, the one moiety thereof to the uſe of the informer or proſecutor, the other moiety to the uſe of the town or diſtrict in which ſuch offence ſhall be committed.

Penalty for giving or taking the ſmall pox without licence.

SEC. 4. *And it is hereby further enacted*, That if any perſon within this ſtate ſhall voluntarily and knowingly, communicate, take or receive the infection of the ſmall pox in any way whatever, contrary to the regulations of the ſelectmen of the town or diſtrict, in which ſuch perſon ſhall reſide, or if any perſon ſhall violate or refuſe to comply with the directions and regulations or any part thereof, which may or ſhall, from time to time, be made by the ſelectmen of any town or diſtrict within this ſtate, to prevent the ſpreading of the ſmall pox, or if any perſon ſhall voluntarily or knowingly communicate, take or receive the infection of the ſmall pox, in any town or diſtrict in this ſtate in which there is no ſelectmen, the perſon ſo offending ſhall pay a fine not exceeding two hundred dollars, to be recovered and appropriated as in this act is above provided.

SEC. 5. *And it is hereby further enacted*, That if any perſon or perſons not inhabitants of this ſtate, ſhall knowingly take the infection of the ſmall pox by inoculation, or otherwiſe, and ſhall come within any town in this ſtate ſo infected, or if any perſon or perſons being inhabitants of this ſtate, ſhall go without the ſame for the purpoſe of receiving ſuch infection, by inoculation or otherwiſe, and ſhall return with ſuch infection without giving previous notice to the ſelectmen of the town to which he, ſhe or they propoſe to return, and

obtaining their consent or approbation, such person or persons so offending shall be liable to the same penalties and to be recovered in the same manner, as is mentioned in the fourth section of this act.

Passed February 23, 1797.

CHAPTER XXXVII.

An ACT *relating to* Quakers, *and for* other purposes *therein mentioned.*

SECTION 1. IT *is hereby enacted by the General Assembly of the state of Vermont,* That every Quaker who shall be required upon any lawful occasion, to take an oath, in any case where, by law an oath is required, shall, instead of the usual form, be permitted to make his or her solemn affirmation or declaration in the words following, *to wit,*

Quakers may affirm instead of being sworn.

"I do solemnly, sincerely and truly declare and affirm ." Which solemn affirmation or declaration shall be adjudged and taken and is hereby enacted and declared to be of the same force and effect, to all intents and purposes, in all courts of justice, and other places, where by law an oath is required, as if such Quaker had taken an oath in the usual form

SEC. 2. *And it is hereby further enacted,* That in all cases wherein, by any act or acts of the Legislature of .his state, now in force, or hereafter to be made, an oath is or shall be allowed, authorised, directed or required, the solemn affirmation or declaration in the form above described, of any of the people who shall be a member or members of the religious society of the people called Quakers, or

ſhall uſually aſſociate with the people called Quakers, in their religious worſhip, or be generally reputed to be a Quaker, ſhall be allowed and taken inſtead of ſuch oath, although no particular or expreſs proviſion be made for that purpoſe in ſuch act or acts; and all perſons who are or ſhall be authoriſed and required, to adminiſter ſuch oath, ſhall be and hereby are authoriſed and required to adminiſter the ſaid affirmation or declaration. And the ſaid ſolemn affirmation or declaration ſo made as aforeſaid, ſhall be adjudged and taken and is hereby enacted and declared to be of the ſame force and effect, to all intents and purpoſes, in all courts of juſtice, and other places where by law an oath is or ſhall be required, authoriſed, directed or allowed, as if ſuch Quaker had taken an oath in the uſual form.

Penalty for falſe affirmation.

SEC. 3. *And it is hereby further enacted*, That if any perſon making ſuch ſolemn affirmation or declaration, ſhall be lawfully convicted of having wilfully, falſly and corruptly affirmed, and declared any matter or thing, which if the ſame had been depoſed in the uſual form, would have amounted to wilful and corrupt perjury, every perſon ſo offending, ſhall incur and ſuffer the like pains, penalties and forfeitures, as by the laws and ſtatutes of this ſtate are, or ſhall be directed to be inflicted on perſons convicted of wilful and corrupt perjury.

Perſons not Quakers ſcrupulous of taking an oath, may affirm.

SEC. 4. *And it is hereby further enacted*, That if any perſon, not of the denomination of Quakers, ſhall be ſcrupulous of ſwearing and ſhall decline taking the oath in the ordinary way, the perſon whoſe duty it ſhall be to adminiſter any oath, to any ſuch perſon, may adminiſter the affirmation or declaration in the ſame manner as is provided in

this act, and if such person shall falsly affirm; he or she shall suffer the like pains, penalties and forfeitures as is before provided and directed in the third section of this act.

Quakers not compelled to bear arms nor serve as jurors.

SEC. 5. *And it is hereby further enacted*, That all such of the inhabitants of this state, being of the people called Quakers, as from scruples of conscience may be averse to bearing of arms, be and hereby are excused; nor shall they be compelled to serve as jurors in any criminal case.

Passed February 23, 1797.

CHAPTER XXXVIII.

An ACT *relating to* weights *and* measures.

Treasurer of the state to provide one set of weights and measures.

SECTION 1. IT *is hereby enacted by the General Assembly of the State of Vermont*, That the treasurer of this state, shall provide and keep in good order and repair in his office, one complete set of weights and measures, necessary for the use of this state, according to the approved Winchester measure allowed in England in the exchequer, *namely*, one half bushel, one peck, one half peck, one ale quart, one wine gallon, one two quart wine measure, one quart, one pint, one half pint, one gill, and one half gill wine measure; one english ell; one yard; one set of iron weights, *namely*, one fifty-six pound weight, one twenty-eight pound weight, one fourteen, one seven, one four, one two, and one pound weight; and a suitable scale and beam necessary for the use of the same: Also one set of brass weights, from one ounce to four pouuds at the rate of sixteen ounces to the pound, and a suitable scale and steel beam necessary for the use of the same, tried and approved according to said standard of Winchester

which ſhall be conſidered and underſtood to be the public ſtandard, throughout this ſtate, for the approving and ſealing all weights and meaſures; which ſtandard of weights and meaſures ſhall be provided by the treaſurer of this ſtate, from time to time as the ſame ſhall become neceſſary, and kept in his office. And if the ſaid treaſurer ſhall neglect to procure and keep in his office aforeſaid all or any of the weights, meaſures, ſcales or beams as aforeſaid, he ſhall forfeit and pay one hundred dollars for each and every ſix months he ſhall be ſo deficient, with coſts to be recovered before any court of competent juriſdiction, one moiety of which ſum to the proſecutor, and the other moiety to the treaſurer of the county in which ſuch proſecution ſhall be had. And each and every county treaſurer within this ſtate, ſhall at the expence of their reſpective counties provide within ſix months, and keep the ſame in repair in his office, all the aforeſaid weights, meaſures, beams and ſcales according to the ſtandard above mentioned, proved and ſealed by the treaſurer of this ſtate, and ſhall from time to time keep the ſame in his office in good order and repair. And the ſelectmen of every town within this ſtate ſhall provide from time to time, as they may be wanted, at the expence of the town, one half buſhel, and one peck of the following dimenſions, *namely*, The half buſhel in diameter within ſide, not leſs than thirteen inches and three quarters of an inch, the peck not leſs than ten inches and three qarters within ſides; one half peck, one ale quart, one wine gallon, one two quart, one quart, one pint, one half pint, one gill, one half gill wine meaſure, one Engliſh yard, one ſet of braſs weights from one ounce to four pounds *avoirdupoiſe* weight, with

Penalty for neglect.

Treaſurer of the county to provide weights and meaſures for the uſe of the county.

Selectmen to provide the ſame.

ſcales and ſteel beam; all the above meaſures, weights ſcales and beams to be tried, proved and ſealed by the county treaſurer, according to the aforeſaid ſtandard of Wincheſter, provided by the reſpective counties, which ſhall be kept only for ſtandards.

Steelyards approved by ſtandard allowed.

SEC. 2. *And it is hereby further enacted*, That all ſteelyards, that are or ſhall be approved of by the ſtandard, ſhall be allowed of in any towns in this ſtate, and be at the liberty of both buyer and ſeller to weigh by.

Weights and meaſures to be delivered over to the ſealers thereof.

SEC. 3. *And it is hereby further enacted*, That all weights, meaſures, ſcales and beams, provided by the reſpective towns within this ſtate as aforeſaid, ſhall yearly and every year be delivered to the ſealer of weights and meaſures, who ſhall be choſen and ſworn as the law directs, in the ſeveral towns. And the ſealer of weights and meaſures within every town in this ſtate ſhall poſt up a notification in writing in the month of January annually, requiring all and every perſon within their reſpective towns to bring in to ſaid ſealers of weights and meaſures, all ſuch weights and meaſures by which they reſpectively buy or ſell, giving at leaſt fourteen day's notice of the time appointed for ſealing as aforeſaid; and the ſealers of ſuch weights and meaſures, may demand and receive from the owner of all weights and meaſures, ſo tried, proved and ſealed by the town ſeal, two cents for each weight or meaſure ſo ſealed by him, and if any perſon ſhall carry any weights or meaſures to be ſealed at any time after the day notified for ſealing as aforeſaid, the ſealers of weights and meaſures in ſuch caſe may demand and take eight cents for each article ſealed, which town ſeals ſhall be provided by the ſelectmen of their reſpective towns at the expence and charge of the ſame.

Who ſhall give notice thereof in writing.

SEC. 4. *And it is hereby further enacted,* That if the treaſurers of the reſpective counties, or the ſelectmen, or ſealers of weights and meaſures of any town in this ſtate, ſhall neglect or refuſe to procure any weights, meaſures, ſcales or beams, or ſhall neglect or refuſe to ſeal any weight or meaſure, or to give notices as above directed, they ſhall ſeverally forfeit and pay for every month's neglect or refuſal, the ſum of three dollars and fifty cents, one moiety to the proſecutor, and the other moiety for the uſe of the poor of the town in which ſuch delinquent lives, to be recovered by action of debt before any court proper to try the ſame.

Penalty on county treaſurer, ſelectmen, and ſealers of weights &c. for refuſal or neglect.

SEC. 5. *And it is hereby further enacted,* That if any perſon or perſons within this ſtate, ſhall twenty days after notice being given by the ſealers of weights and meaſures as aforeſaid, ſell or vend any wares, merchandizes, or other commodities whatever, by any other beams, weights and meaſures but ſuch as ſhall be tried, proved and ſealed as this act requires, the perſon ſo offending ſhall forfeit for each offence, a ſum not exceeding ſeven dollars, one moiety thereof to the proſecutor, the other moiety for the uſe of the poor of the town, to be recovered in manner as is herein before provided.

Penalty for ſealing by unſealed weights and meaſures.

SEC. 6. *And it is hereby further enacted,* That all beams, weights and meaſures kept for ſtandands in the ſeveral towns, ſhall be tried and proved every ten years, by the county ſtandard. And the ſtate ſtandard ſhall be ſtamped with the letters S. S.; and the ſeveral county ſtandards ſhall be ſtamped with the letters C. S.; and the ſeveral town ſtandards ſhall be ſtamped with the letters P. D.

Standards how to be ſtamped.

Paſſed March 8, 1797.

CHAPTER XXXIX.

An ACT *limiting the* time *of holding the* county offices *therein mentioned.*

County offices when to commence and expire.

SECTION 1. IT *is hereby enacted by the General Assembly of the ſtate of Vermont*, That the judges of the ſeveral county courts, judges of probate, juſtices of the peace, and ſheriffs in the reſpective counties, now in office or hereafter to be appointed for the remainder of the enſuing year, ſhall hold and exerciſe their offices reſpectively until the firſt day of December next.

To be exerciſed one year.

SEC. 2. *And it is hereby further enacted*, That all the officers aforeſaid, hereafter to be appointed by the Legiſlature at their October ſeſſion ſhall hold and exerciſe their offices reſpectively for one year, to be computed from the firſt day of December next following their election.

Sheriff to continue in office till another is ſworn.

SEC. 3. *Provided always, and it is hereby further enacted*, That nothing in this act ſhall be conſtrued to prevent the ſheriff of any county continuing in office after the expiration of the year as above-mentioned when another is appointed, but not qualified, and in all ſuch caſes the ſheriff ſhall continue to exerciſe all the duties appertaining to the office of ſheriff, until another ſhall be duly qualified according to law.

Paſſed February 22, 1797.

CHAPTER XL.

An ACT *for the regulation of* ferries *and* ferriages *within this ſtate.*

Preamble

WHEREAS it has been found by experience that great advantage has been taken by ferrymen, demanding unreaſonable prices for

their ſervice; and whereas this aſſembly cannot ſo well diſtinguiſh between the ſeveral rivers, and the ſeveral parts of ſaid river, pond, or lake, on account of diſtance, ſwiftneſs of water, and number of travellers—Therefore, to prevent impoſition,

SECTION I. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont,* That the magiſtrates and ſelectmen of the ſeveral towns in this ſtate, in which ferries are neceſſary to be kept, ſhall meet ſome time before the tenth day of April annually, at a time and place by them agreed upon, and appoint proper perſons and places for ferries, and ſhall lay out, and cauſe to be made and repaired, ſuitable roads to, and from the ſame; and further regulate the tolls thereof, according to the profits of ſuch ferries, and price of labor, to be varied from time to time, as occaſion ſhall require. And where two or more towns ſhall border on the ſame river, creek, pond or lake, oppoſite to each other, within this ſtate, the magiſtrates and ſelectmen, of ſuch towns, ſhall meet together for the purpoſes and by the time aforeſaid. And the oldeſt magiſtrate in either of ſaid towns, ſhall notify the other magiſtrates and ſelectmen of the time and place of meeting.

Ferries how regulated:

Tolls how and by whom aſcertained:

And if any perſon or perſons ſhall tranſgreſs this act, by demanding any greater toll for ferriage, than ſhall be ſtated by the authority and ſelectmen aforeſaid, he, ſhe or they ſhall, for every ſuch offence, forfeit the ferriage, or toll demanded, and the ſum of two dollars and fifty cents, one half to the informer, who ſhall proſecute the ſame to effect, and the other half to the treaſury of the town in which ſuch offence ſhall be committed, to be recovered by action brought on this ſtatute,

before any juſtice of the peace of the ſame county.

Penalty for keeping a ferry without licence.

SEC. 2. *And it is hereby further enacted*, That no perſon, other than ſuch as ſhall be appointed as aforeſaid, ſhall be at liberty to keep a ferry, or for reward, ſet any perſon or perſons over any river, creek, pond or lake, at the places deſignated for ferries by the authority aforeſaid; and every perſon tranſgreſſing herein ſhall forfeit and pay ten dollars, for every ſuch offence, one moiety to the ferry-keeper, and the other moiety to the informer, and if the ferry-keeper ſhall be the informer, he ſhall have the whole penalty.

Penalty for not keeping ferry boats in repair.

SEC. 3. *And it is hereby further enacted*, That if any perſon who ſhall be appointed as a ferry-keeper in manner aforeſaid, and ſhall accept ſuch appointment, ſhall neglect to provide and keep in repair ferry-boats ſuitable and proper for ſuch ferry, in the judgment of the magiſtrates and ſelectmen making the grant as aforeſaid, for the ſpace of one month, ſhall forfeit his or her right, to keep ſuch ferry, and the ſame right may by them be granted to any other perſon, or perſons, who ſhall apply for the ſame; and if any ferry-keeper ſhall unreaſonably neglect or refuſe to carry, or ſet any perſon or perſons, horſes, carriages, cattle or other property as aforeſaid, over any river, creek, pond or lake, where a ferry ſhall be appointed, the ferry-keeper ſo refuſing or neglecting, ſhall forfeit for every ſuch offence, a ſum not exceeding twenty dollars, nor leſs than two dollars, to be recovered by action brought on this ſtatute, before any court proper to try the ſame; one to the perſon who ſhall ſue for the ſame, and the other moiety to the treaſury of the town in which the offence ſhall be committed.

On neglecting or refuſing to carry over perſons or property:

Paſſed March 3, 1797.

CHAPTER XLI.

An ACT *relating to* mills *and* millers.

SECTION 1. IT *is hereby enacted by the General Assembly of the State of Vermont*, That every owner or occupier of a grist-mill, shall well and sufficiently grind the grain brought to such mill, and may take for the toll, one sixteenth part and no more, of all grain of which the remaining part shall be ground into meal, unless the same be boulted; in which case he shall receive one sixty-fourth part more, in addition to such toll; and one thirty second part of malted grain, the remainder of which shall be ground. And every owner or occupier of a mill, who shall take or exact more toll than is before directed, shall for every such offence, forfeit and pay the sum of three dollars, to the party injured, recoverable with costs, before any justice of the peace, of the county in which such offence shall be committed.

Grist mills tolls regulated:

Penalty for taking more than legal toll.

SEC. 2. *And it is hereby further enacted*, That every owner or occupier of a grist-mill, shall provide sealed measures *namely*, one half bushel, peck, half peck, two quart, one quart and one pint, with an instrument, with a plain surface, to strick such measures. And if any owner or occupier as aforesaid, shall make use of any false measures or instrument, he shall be liable to the same penalty, and in the same manner, as is before provided in this act.

Millers to provide sealed measures:

Penalty for using false measures:

Passed February 28, 1797.

CHAPTER XLII.

An ACT *relating to the* marking *and* branding *of* cattle, ſheep *and* hogs.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That the owner or owners, of any neat cattle, ſheep or hogs, may ear-mark or brand the ſame as he, ſhe or they may think proper; and cauſe their ſeveral marks, or brands, to be recorded or regiſtered in the town clerk's office, in the town in which ſuch owner or owners ſhall reſide.

Owners of cattle, &c. may brand and mark the ſame:

Town clerk to record:

SEC. 2. *And it is hereby further enacted*, That if any perſon ſhall wilfully and willingly alter, cut out or deface the mark or brand of any creature, ſheep or hog, ſo marked or branded as aforeſaid, not being the proper owner thereof, every perſon ſo offending, ſhall forfeit treble the value of the creature, ſheep or hog, the mark of which ſhall be ſo altered, cut out or defaced, to be recovered by action founded on this ſtatute, in any court proper to try the ſame; the one half to him, her or them, who ſhall proſecute the ſame to effect, and the other half ot the treaſury of the town in which the offence ſhall be committed.

Penalty for altering or defacing marks:

Paſſed February 28, 1797.

CHAPTER XLIII.

An ACT *for the* preſervation *of* fiſh *and* muſkrats.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That it ſhall not be lawful for any perſon or perſons to erect or fix, on any water

course, any dam, dyke, weir, fence, fish gorge, or other stoppage, whereby navigation or the passage of fish may be obstructed, save only for the purpose of working some machine or engine, useful to the public; and where any are now standing or may hereafter be erected, the same shall be considered as nuisances, and may be abated by any person or persons whomsoever.

Dams erected to be removed.

Penalty for.

SEC. 2. *And it is hereby further enacted*, That whoever shall be guilty of a nuisance, in the purview of this act, shall forfeit and pay a sum not exceeding fifteen dollars, with costs, one moiety to the person who shall prosecute the same to effect, and the other moiety to the use of the treasury of the county in which such nuisance shall be erected; and if any person or persons shall abate such nuisance, and be sued therefor, he, she or they may plead the general issue to such suit, and give this act in evidence.

Trout when to be taken.

SEC. 3. *And it is hereby further enacted*, That it shall not be lawful for any person or persons, willingly to take, kill and destroy any trout, in any lake, pond, river or creek in this state, at any time between the twentieth day of September, and the twentieth day of December, annually.

Penalty for taking contrary to law.

SEC. 4. *And it is hereby further enacted*, That whoever shall be guilty of an offence against the last preceding section of this act, shall forfeit and pay a sum not exceeding five dollars, with costs, one moiety to the person who shall prosecute the same to effect, and the other moiety to the use of the treasury of the town, in which the offence shall be committed, with costs of suit.

SEC. 5. *And it is hereby further enacted*, That if any person shall kill or destroy any

Muſkrats preſervation of.

muſkrat, within the months of June, July, Auguſt, September or October, he ſhall forfeit and pay the ſum of one dollar for every ſuch offence, one moiety thereof to the perſon who ſhall proſecute the ſame to effect, and the other moiety to the uſe of the treaſury of the town in which the offence ſhall be committed, with coſts of ſuit.

Paſſed March 3, 1797.

CHAPTER XLIV.

An ACT *to prevent the deſtruction of* deer.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That if any perſon or perſons ſhall willingly kill or deſtroy, any wild buck, doe or fawn, or any other ſort of deer whatever, at any time between the tenth day of January, and the firſt day of July following; or if any perſon ſhall catch and take alive any of the deer aforeſaid, in the months of February, March or April, every ſuch perſon ſhall, for every buck, doe or fawn, or other deer ſo killed, deſtroyed or catched and taken as aforeſaid, contrary to the true intent and meaning of this act, forfeit and pay the ſum of ten dollars, to be recovered with coſts of ſuit, before any juſtice of the peace of the ſame county, in which the offence ſhall be committed, by any perſon or perſons who will ſue, and proſecute for the ſame; the one moiety of which forfeiture, when recovered, ſhall be paid to the treaſurer of the town, or place, in which the offence ſhall be committed, for the uſe of ſuch town or place, and the other moiety ſhall belong to the perſon or perſons who

Penalty for killing deer out of ſeaſon.

ſhall ſue and proſecute for the ſame to effect.

Penalty for ſelling freſh veniſon or green deer ſkins.

SEC. 2. *And it is hereby further enacted*, That every perſon in whoſe cuſtody ſhall be found, or who ſhall expoſe for ſale, any green deer ſkin, freſh veniſon, or deer's fleſh at any time between the tenth day of January, and the firſt day of July following, and ſhall be thereof convicted, before any juſtice of the peace, by the oath of one credible witneſs, or by the confeſſion of the party, ſhall, unleſs ſuch party ſhall prove that ſome other perſon killed ſuch deer, or that the ſame was killed previous to the tenth day of January, be deemed and adjudged guilty of the ſaid offence.

Mode of proof.

Juſtice to iſſue ſearch warrant.

SEC. 3. *And it is hereby further enacted*, That it ſhall be lawful for any juſtice of the peace, in any county in this ſtate, and every ſuch juſtice is hereby required, upon demand made by any perſon, aſſigning a reaſonable cauſe of ſuſpicion upon oath (of the ſufficiency of which the ſaid juſtice is to judge) at any time, in either of the months before mentioned, to iſſue his warrant, to any conſtable of any town or place, in the ſame county, for ſearching in the day time, in any houſe, ſtore, outhouſe, or other place whatever, in which any green deer ſkin, freſh veniſon or deer fleſh is ſuſpected to be concealed. And if any green deer ſkin, freſh veniſon or deer fleſh, ſhall, upon ſuch ſearch be found, the perſon in whoſe cuſtody the ſame ſhall be found, or who concealed the ſame, ſhall forfeit and pay the ſum of ten dollars, to be recovered and applied in manner aforeſaid.

Former acts repealed.

SEC. 4. *And it is hereby further enacted*, That all former laws and acts of this ſtate, concerning deer, ſhall be, and hereby are repealed. *Provided nevertheleſs*, that nothing herein contained, ſhall be conſtrued to effect any

forfeiture or penalty which may have accrued, prior to the paſſing of this act.

Paſſed March 9, 1797.

CHAPTER XLV.

An ACT *for the encouraging the deſtroying of* wolves *and* panthers *within this ſtate.*

Premium for killing wolves, &c.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont,* That if any perſon ſhall take, kill and deſtroy, any grown wolf or panther within this ſtate, he ſhall receive out of the treaſury of the ſtate, twenty dollars, as a premium for every ſuch wolf or panther, and for the ſucking whelp of every wolf or panther, the ſum of ten dollars.

Treaſurer to furniſh blank certificates.

SEC. 2. *And it is hereby further enacted,* That it ſhall be the duty of the treaſurer of the ſtate, to furniſh each judge of the county courts, in the reſpective counties within this ſtate, with a number of printed blanks of a certificate, proper to be given in ſuch caſe; and every perſon who ſhall kill a wolf, panther or whelp, within this ſtate, ſhall apply to a judge of the county court, within the county in which ſuch wolf, panther or whelp is killed, with the head of ſuch wolf, panther, or whelp, and ſuch judge ſhall ſtrictly examine ſuch perſon, or perſons, on oath, or otherwiſe, when, where and how he or they obtained ſuch head, and whether the wolf, panther or whelp to which it belonged, was taken or killed within this ſtate, and when ſuch judge ſhall be ſatisfied thereof, he ſhall give a certificate thereof, by filling up and ſigning one of the aforeſaid blanks, which certificate the treaſurer ſhall receive, and thereupon pay to the holder,

Heads of wolves, &c. to be produced and proof made of killing, &c.

the above premium, agreeable to the certificate given by ſuch judge.

SEC. 3. *And it is hereby further enacted,* That if any perſon ſhall take any wolf, panther or whelp, out of any pit, made to catch wolves, or out of any trap, thereby to defraud the owner or owners of ſuch pit or trap, of his or their premium, he ſhall pay to the owner or owners of ſuch pit or trap, the ſum of thirty dollars, for every wolf, panther or whelp ſo taken out as aforeſaid, to be recovered with coſts of proſecution, before any court of competent juriſdiction. Penalty for fraud.

Paſſed March 6, 1797.

CHAPTER XLVI.

An ACT *defining the powers of* juſtices of the peace *within this ſtate.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont,* That every juſtice of the peace within his reſpective juriſdiction, be, and is hereby fully authoriſed and empowered, to hear, try and determine all pleas, and actions of a criminal nature, if the fines and forfeitures are within the ſum of ſeven dollars, and the corporal puniſhment ſhall not exceed ten ſtripes. Juſtices of the peace juriſdiction in criminal caſes.

SEC. 2. *And it is hereby further enacted,* That every juſtice of the peace, within the limits of his authority, be, and is hereby empowered to cauſe to be apprehended and committed to priſon, or bound over, to be tried by the county, or ſupreme court, all criminal offenders, the enormity of whoſe miſdemeanor, ſurpaſſes his power to try. May bind over or commit to priſon offenders whom they have not power to try.

SEC. 3. *And it is hereby further enacted*, That it ſhall be the duty of every juſtice of the peace within this ſtate, who ſhall bind over any reſpondent, to appear before any county or ſupreme court, within this ſtate, to bind over the neceſſary witneſſes, who ſhall attend before ſuch juſtice, to appear before the ſame court, to which ſuch reſpondent ſhall be bound, in the ſame ſum in which the reſpondent ſhall be bound. And in caſe any witneſs ſhall refuſe to become recognized as aforeſaid, ſuch juſtice ſhall have power to commit the perſon ſo refuſing, to the common gaol in ſuch county. And the gaoler is hereby directed to detain ſuch perſon, until he ſhall enter ſuch recognizance, and pay the coſt of commitment. *Provided* that if the reſpondent ſhall be committed ſuch juſtice ſhall bind each witneſs ſeverally, in ſuch ſum as he ſhall judge proper, conſidering the nature and aggravation of the offence.

Maybind over witneſſes.

Witneſſes refuſing to be recognized maybe commited

SEC. 4. *And it is hereby further enacted*, That every juſtice of the peace, within his proper ſphere of juriſdiction, be, and he hereby is fully authoriſed and empowered, to hear, try and determine, all pleas and actions of a civil nature, (other than actions for ſlanderous words, falſe impriſonment, replevin above the ſum of ſeven dollars, treſpaſs upon the freehold, and where the title of land is concerned) where the debt or other matter in demand does not exceed the ſum of thirty-three dollars. And alſo to determine as aforeſaid, on all ſpecialties, notes of hand, and ſettled accounts, not exceeding the ſum of fifty-three dollars.

Their juriſdiction in civil cauſes.

Provided, That in all cauſes cognizable before a juſtice of the peace, any perſon who ſhall think him or herſelf aggrieved, by the ſentence or judgment given or rendered by ſuch juſtice, ſhall have liberty to appeal there-

Appeal from, to the county court regulated

from, to the next county court, to be holden within and for the ſame county, whether the ſame be an adjourned or ſtated term. And the party claiming ſuch appeal, ſhall enter the ſame within two hours from the time of the rendering of ſuch ſentence, or judgment, and ſhall give ſufficient ſecurity by way of recognizance, in criminal cauſes to the treaſurer of the town or county, where the offence is charged to have been committed, if the proſecution be commenced on the complaint of a town or county informing officer; if otherwiſe, to the proſecutor; conditioned, "That he ſhall perſonally appear before ſaid county court, and there proſecute his appeal ſo taken, to effect, and abide the order or ſentence of court thereon, and in the mean time to be of good behavior." And the party ſo appealing, ſhall remain in the cuſtody of an officer, until he, ſhe, or they, ſhall have given ſuch ſecurity. And if the appeal be claimed in a civil cauſe, then the recognizance ſhall be conditioned, "That he, ſhe or they ſhall proſecute the ſame to effect; and anſwer and pay all intervening damages, occaſioned to the appellee, by his, her or their being delayed, with additional coſts in caſe judgment be affirmed." And the party appealing ſhall produce and enter in the court in which trial on ſuch appeal is to be had, atteſted copies of the complaint, warrant, writ, ſentence or judgment, and all the evidence filed in the court, from which ſuch appeal was allowed. And all civil cauſes brought before the county courts, by appeal from juſtices' courts, ſhall, by ſaid county courts be heard and finally determined without any appeal or review.

Provided, That no appeal ſhall, in any caſe be allowed, if the judgment was rendered by non-ſuit or default.

Provided also, That no appeal shall be allowed in any action brought on notes of hand and settled accounts, if such notes or settled accounts, shall not exceed the sum of seven dollars.

May grant execution and warrant.

SEC. 5. *And it is hereby further enacted*, That in all civil causes, in which judgment shall be rendered, by any justice of the peace, and no appeal is entered as aforesaid, such justice may grant execution immediately, returnable in sixty days; and in all criminal causes in which sentence shall be given, where no appeal as aforesaid is entered, the justice shall immediately issue his warrant, to carry the same into effect.

May revive actions in certain cases.

SEC. 6. *And it is hereby further enacted*, That every justice of the peace within this state, shall have discretionary power to revive any action, in which judgment may have been rendered by non-suit, or default, at any time within two hours from the rendition of such judgment, under such regulations and conditions, as he shall judge fit and reasonable. And all proceedings shall be had therein, the same as though no such judgment had been rendered; any law, usage or custom to the contrary, notwithstanding.

Their judgments not to be reversed by writ of error.

SEC. 7. *And it is hereby further enacted*, That no judgment, sentence or decree, had or rendered by any justice of the peace within this state, or the merits of any civil cause or action, within the jurisdiction of a justice shall be removed by writ of error, *certiorari*, or any other process whatever; or shall be re-examined, or reversed, by the supreme court of judicature, any law usage or custom to the contrary notwithstanding.

Suits where to be bro't:

SEC. 8. *And it is hereby further enacted*, That in all suits cognizable before a justice of the peace, between citizens of this state, the same

ſhall be brought and tried in the town in which the plaintiff or defendant reſides, if there be a juſtice in each of ſuch towns, who can lawfully try the ſame, and if there be no juſtice who may lawfully try the ſame, in the town in which the plaintiff reſides, the ſuit may be brought and tried in the town in which the defendant reſides, or in the next town adjoining to that in which the plaintiff reſides, in which there ſhall be a juſtice as aforeſaid.—And if there be no juſtice as aforeſaid, in the town in which the defendant reſides, in that caſe the ſuit may be brought in the town in which the plaintiff reſides, or in the town next adjoining that in which the defendant reſides, in which there ſhall be a juſtice, who may lawfully try the ſame. And in ſuits in which the creditor ſhall not be a citizen of this ſtate, actions ſhall be brought within the town where the defendant dwells; and fees ſhall be taxed in ſuch action for travel of the party, on the neareſt road croſſing the line of this ſtate, or neareſt ſtated ferry, to the place of holding the court, and no further.

Fees for ſheriff's travel regulated.

Provided That in no caſe whatever, the travel of the plaintiff or defendant, ſhall be taxed at a greater ſum than two dollars, in any one ſuit, excepting that if both the parties reſide within this ſtate, the defendant ſhall be entitled to his full travel, from his place of abode to the place of holding the court.

Provided alſo, That in any action brought before a juſtice of the peace, to recover any debt, due or demand for goods, wares and merchandize, ſold and delivered within this ſtate, and the plaintiff, ſhall have removed, or not reſide within this ſtate, in ſuch caſe the plaintiff ſhall recover no more fees for his travel, than he would be entitled to, if he reſided

in the place where ſuch debt, due or demand was contracted.

Mode of proceſs.

SEC. 9. *And it is hereby further enacted*, That every juſtice of the peace, within his juriſdiction, may, on application, as nearly as may be, in the form preſcribed by law, grant writs of ſummon, or attachment, warrant and execution, as the caſe may require, and ſhall be directed to the ſheriff of the county, his deputy, or either of the conſtables of the town, where the ſervice is to be done, where the demand of the plaintiff doth not exceed the aforeſaid ſums, taking ſecurity for the coſt of proſecution, in all caſes where by law ſuch ſecurity is required to be taken, and every ſuch writ of ſummons or attachment, ſhall be ſerved, at leaſt ſix days before the time therein appointed for the trial, and in every caſe where ſuch writ of ſummon or attachment ſhall be ſerved in any other county, different from the county in which ſuch trial ſhall be had, the ſame ſhall be ſerved, at leaſt twelve days before the time therein appointed for trial. And every ſuch writ of ſummons or attachment, and every writ of execution, may run into any town or county in this ſtate.

To whom directed.

Not to grant warrants on private complaints till bonds are given

SEC. 10. *And it is hereby further enacted*, That no ſpecial warrant, to apprehend the body of any perſon, ſhall be granted by any magiſtrate, before the perſon praying out ſuch warrant, has given ſufficient ſurety or ſureties to the acceptance of ſuch magiſtrate, by way of recognizance, to the perſon complained of, that ſuch perſon requeſting the warrant, will proſecute his complaint to effect, and anſwer all damages, if he does not ſupport it, a minute of which recognizance ſhall be made, and ſigned, as is directed in civil cauſes. And if any warrant ſhall otherwiſe iſſue, the priſoner

ſhall be diſcharged from the ſame, and recover his coſts againſt the complainer.

Provided, That an informing officer ſhall not be obliged to give ſuch ſurety, in the proſecution of criminals or delinquents.

Maydeputiſe perſons to ſerve writs in certain caſes.

SEC. 11. *And it is hereby further enacted*, That if it ſhall be made to appear, to a juſtice of the peace, that a writ of ſummons or attachment, or any execution or warrant by him granted, may fail of ſervice for the want of a proper officer, ſeaſonably to be had, ſuch juſtice is hereby empowered to deputize any ſuitable perſon to ſerve the ſame, by inſerting on the back of ſuch writ, and ſigning the following words, *namely*,

"At the requeſt and riſk of the plaintiff, I authoriſe to ſerve and return this writ."

Proceſs not to abate for matters of form.

Fees to deputiſed perſons.

And the perſon ſo authoriſed, ſhall have all the power of the ſheriff, to whom ſuch writ may be directed, in the ſervice and return of ſuch writ, and ſhall be ſworn to the truth of the return by him made. And no ſuch writ ſhall abate for want of form therein, or in the officer's return. And in every ſuch caſe, ſuch perſon ſo deputed by the juſtice, ſhall not be allowed more than one half of the fees allowed by law to a proper officer.

Defendant may plead in offset.

SEC. 12. *And it is hereby further enacted*, That the plaintiff in any action pending before a juſtice of the peace, ſhall be indebted to the defendant, by bond, bill, note, book or other contract, the defendant may plead in offset to the plaintiff's demands, any ſum within the juriſdiction of a juſtice, as aforeſaid, due to him from the plaintiff. And the plaintiff may likewiſe plead in offset to the defendant's demand, ſo plead in offset, any other ſum, within the juriſdiction of a juſtice, as aforeſaid; and the juſtice ſhall render judg-

ment for such sums as he shall find in arrear, from either party.

Provided, That no sum due on bond, bill, note or other contract, not due and payable before the commencement of the plaintiff's action; nor any bill, or note sold, endorsed or assigned to the plaintiff or defendant, shall be allowed in any plea of offset, unless it shall appear on trial, that notice of such sale, endorsement, or assignment, was given by the party holding such bill or note, to the opposite party, before the commencement of the plaintiff's action; which in such case, shall be taken to be the day of service of the original writ in the action.

Judgments before the same court may offset

SEC. 13. *And it is hereby further enacted*, That where there are mutual judgments recovered between the same parties, in any justice's court, such court may on motion of either party, offset such judgments against each other, and execution shall issue for the balance only.

Trial may be by jury.

SEC. 14. *And it is hereby further enacted*, That either party in any cause pending before a justice of the peace, shall be entitled to a trial by jury.

Jurors how summoned and impannelled.

SEC. 15. *And it is hereby further enacted*, That when it shall be necessary for a jury to attend a justice's court in matters of dispute, the parties may mutually agree on the jury, and upon the neglect or refusal of either party, as also in criminal causes, or matters of delinquency, the following method shall be taken to procure and empannel a jury, *to wit*, the constable (or in case of his absence, or being related to either of the parties, or interested, any indifferent person, to be appointed by the justice,) shall write the names of eighteen respectable freeholders of the vicinity, on eighteen separate pieces of paper, of an equal

ſize, and roll each piece up, ſo that the name cannot be ſeen, and deliver them to the juſtice, who ſhall put them into a box, and ſhaking it ſo that they ſhall mix together, ſuch officer ſhall draw out one, and the perſon whoſe name is ſo drawn, ſhall be one of the jury, unleſs challenged by one or other of the parties; and the officer ſhall thus proceed, until he hath drawn ſix, who ſhall not be challenged. And in caſe the firſt twelve ſhall be challenged, and the parties do not then agree to a choice, as aforeſaid, the laſt ſix ſhall be the jury, and ſhall be ſummoned by the officer, being thereto required by the juſtice. And if any juror, drawn and ſummoned as aforeſaid to attend on a juſtice's court, ſhall not appear or ſhall refuſe to ſerve, he ſhall forfeit and pay a fine of two dollars, and coſts of ſuit, to the treaſury of the town where the cauſe is to be tried, unleſs he ſhall render a ſufficient excuſe, to the ſatisfaction of the juſtice, before whom the default ſhall be made. And when it ſhall ſo happen, that any of the ſix jurors ſo drawn, cannot be had, and the parties will not agree on a perſon or perſons to fill ſuch vacancy, the officer ſhall proceed, as aforeſaid, to write the names of three times the number thus deficient, on ſeparate and equal pieces of paper, as aforeſaid, which being diſpoſed of, and drawn in the manner before directed, the perſons drawn ſhall ſupply the deficiency of ſuch jury.

Penalty on jurors for not attending

Deficiency of how ſupplied.

SEC. 16. *And it is hereby further enacted*, That when any jury ſhall be empannelled to try any cauſe, pending before a juſtice of the peace, it ſhall be lawful for ſuch jury, and they are hereby empowered to audit and adjuſt all accounts and demands committed to them by ſuch juſtice, and draw the juſt balance between the parties, in ſuch cauſe, and return

Jurors in their verdict to return the balance due to either party.

ſuch balance to the ſaid juſtice in their verdict; any former law, uſage or cuſtom in this ſtate to the contrary notwithſtanding,

Juſtices may return the jury to a ſecond and third conſideration.

SEC. 17. *And it is hereby further enacted*, That when any juſtice of the peace, before whom a cauſe may be pending, ſhall have power, if they judge that the jury have miſtaken the law, or evidence material in the iſſue, or have not paid proper attention thereto, to cauſe them to return to a ſecond and third conſideration of the cauſe, and if the jury do not alter or retract their verdict, the ſame ſhall be received.

May continue the cauſe when it ſhall appear that the defendant was out of the ſtate at the time of ſervice

SEC. 18. *And it is hereby further enacted*, That when it ſhall appear to the ſatisfaction of the juſtice, before whom any cauſe ſhall be pending, that the defendant was out of the ſtate at the time of commencing ſuch ſuit, and ſhall not have come within the ſame, a ſufficient time before the time appointed for trying the cauſe, to have appeared and had a trial, ſuch juſtice ſhall continue ſuch action, for a time not exceeding one month. And if the defendant do not then appear, and be ſo remote that notice of ſuch ſuit could not probably be conveyed to him, (unleſs the plaintiff ſhall make it appear to the ſatisfaction of ſuch juſtice, that the defendant ſhall have had notice of the ſervice of ſuch proceſs, a ſufficient time before the return thereof, to have appeared at ſuch court and had a trial) ſuch juſtice may continue ſuch action for any further term in his diſcretion. And in a caſe where judgment ſhall be rendered on default, (excepting where ſuch notice as aforeſaid, ſhall be proved) execution ſhall not iſſue until the plaintiff, his agent or attorney, ſhall have given bonds by way of recognizance, with one or more ſureties, in double the value of the eſtate or ſum of money recovered by ſuch judgment, to re-

fund and pay back such sum as shall be given in debt or damages, or so much as shall be recovered by writ of review, which may be brought within three years, next after the rendering of the first judgment, if upon such suit the judgment shall be reversed or altered. And the plaintiff in review, shall take benefit of all pleas and advantages which he might have had upon the original suit. And such bond of recognizance, after the expiration of the three years before mentioned, and no suit for the reversal of judgment having been instituted by the defendant, shall be null and void. And such writ of review shall be served in the same manner, and the same mode of process shall be had thereon, as is directed in an act entitled, "An act constituting the supreme court of judicature and county courts, defining their power, and regulating judicial proceedings." And either party shall have liberty to appeal to the next county court, in the same county, first giving surety to the adverse party as before directed in this act.

Writ of review when brought.

How pro. secuted.

Appeal granted.

SEC. 19. *And it is hereby further enacted*, That every justice of the peace shall have power to adjourn the trial of any civil action brought before him, to such future time as may be proper, not exceeding three months.

Justice may adjourn in civil cause.

SEC. 20. *And it is hereby further enacted*, That when any person is brought before any justice of the peace, to be examined or tried for any criminal offence, by him cognizable, and justice may require that the said examination or trial should be postponed to some future day, the said justice may proceed to take security by way of recognizance, in such exemplary sum as he shall think proper, to the treasurer of the town, county or state, to which the fine would be payable on convic-

In criminal causes:

tion, of the parties and witneſſes for their appearance before him on ſome future day, in the ſame manner as the county and ſupreme courts reſpectively, by law may or can do.

May take confeſſion of debt without anteced. ent proceſs.

SEC. 21. *And it is hereby further enacted*, That any juſtice of the peace ſhall have full power, and they are reſpectively authorized and empowered, to take and accept a confeſſion and acknowlegement of any debt from a debtor to a creditor, either upon or without an antecedent proceſs, as the parties ſhall agree, which confeſſion ſhall be made only by the debtor himſelf in perſon; and of ſuch confeſſion ſo made, the juſtice ſhall make a record, and ſhall grant out execution, in due form of law. And if any debtor ſhall tender ſuch confeſſion to a creditor, to his agent or attorney (in caſe ſuch agent or attorney hold the obligation, or account, on which ſuch confeſſion is tendered) and the creditor, his agent or attorney ſhall refuſe it, he ſhall not recover any coſt which he ſhall ſuſtain after ſuch tender, in procuring judgment for his debt, unleſs it appear that ſuch tender was not for the ſum due.

Debtor may tender a confeſſion.

Juſtice dying or remo. ved before execution iſ. ſued, party may have *ſcire facias*.

SEC. 22. *And it is hereby further enacted*, That when any judgment ſhall have been rendered by any juſtice of the peace on confeſſion, or otherwiſe, and ſuch juſtice ſhall die or be removed from office, before execution ſhall have iſſued thereon, the party recovering ſuch judgment, ſhall have a writ of *ſcire facias*, returnable to the county court, to be holden in the ſame county in which ſuch judgment was rendered, or to a juſtice of the peace of the ſame county, if within his cognizance, and on the return of *ſcire feci* on ſuch writ, the plaintiff producing to the court, to which ſuch writ is made returnable, the record of the

original judgment, or an atteſted copy of the ſame, ſigned by the juſtice ſo removed, or by the clerk of the county court with whom the ſame may be lodged, ſhall recover judgment for ſuch ſum, as ſhall appear to be unpaid, with the intereſt, and additional coſts, and execution may iſſue accordingly. And when any juſtice ſhall remove out of the county in which he ſhall be appointed, it ſhall be his duty to deliver to the clerk of the county court of the ſame county, within two months after ſuch removal, all his files and records as a juſtice of the peace, and on failure thereof, ſhall, for every month's neglect, after two months as aforeſaid, forfeit and pay to the treaſury of the county, in which ſuch juſtice ſhall have been appointed, the ſum of fifteen dollars, to be recovered with coſts of ſuit. And when any juſtice of the peace ſhall die, the executors or adminiſtrators of ſuch juſtice, whether he was in office at the time of his deceaſe or not, ſhall within the time limited for taking an inventory of ſuch deceaſed's eſtate, deliver to the clerk of the county as aforeſaid, the files and records of ſuch deceaſed juſtice, and on default thereof, ſhall forfeit as aforeſaid, to be recovered and applied as aforeſaid. And atteſted copies of the files and records made by the clerk, with whom they ſhall be lodged as aforeſaid, ſhall be as valid, to all intents and purpoſes, as though the ſame had been made by ſuch juſtice in his lifetime.

Juſtice moving out of the county to deliver to the clerk his files and records.

Juſtice dying executors or adminiſtrators to deliver over records, &c.

SEC. 23. *And it is hereby further enacted*, That no juſtice of the peace, ſhall take cognizance of any cauſe, where he ſhall be within either the firſt, ſecond, third or fourth degrees of affinity or conſanguinity to either of the parties,

Juſtice not to try cauſes where he is within certain

degrees of affinity.

or ſhall be directly or indirectly intereſted in the cauſe or matter to be determined.

Not to be of counſel to the parties.

SEC. 24 *And it is hereby further enacted*, That no juſtice of the peace ſhall be of council or act as an attorney to either party, nor ſhall any juſtice of the peace undertake to adviſe or aſſiſt any party in any ſuit or cauſe, pending before him; nor ſhall any juſtice of the peace appear or act as an attorney in any cauſe or matter, in which he ſhall have acted as ſuch.

Not to iſſue writs returnable to another.

SEC. 25. *And it is hereby further enacted*, That no judge of any court, councillor, or juſtice of the peace within this ſtate, ſhall iſſue any writ of ſummons or attachment for a ſum within the juriſdiction of a juſtice, returnable before any other magiſtrate than himſelf.

May appoint a Perſon to act as an officer before his court.

And it is hereby further enacted, That when no proper officer ſhall attend any juſtice's court, and it is neceſſary that there ſhould be ſome officer, for the due exerciſe of his or their reſpective juriſdiction, ſuch juſtice or juſtices ſhall have power to appoint ſome proper perſon to fill the place of ſuch proper officer, and the perſon ſo appointed, ſhall have the ſame powers, be liable to the ſame penalties, and be entitled to the ſame fees, as thoug he were a proper officer attending before ſuch court.

May grant ſubpoena for witneſſes in all caſes.

SEC. 26. *And it is hereby further enacted*, That every juſtice of the peace be, and hereby is empowered to grant *ſubpœna*, in due form of law, for witneſſes, in all cauſes triable, or pending in any court of law or equity in this ſtate; and in all matters and cauſes before the governor and council, and the general aſſembly; and in all cauſes pending or triable before himſelf or any other juſtice of the peace; or in matters triable before referees or arbitrators, to appear as the caſe may be, at a

certain time and place where the ſame may be lawfully taken, to give his depoſition or evidence.

May iſſue warrant to apprehend offenders who have eſcaped from juſtice.

SEC. 27. *And it is hereby further enacted*, That when any juſtice of the peace, in any county in this ſtate, ſhall iſſue his warrant againſt any perſons for an offence commitcted in ſuch county, and the offender eſcape into any other county in this ſtate, any juſtice of the peace in any county where ſuch offender may be found, on application made to him, and proof of ſuch proceſs having iſſued from lawful authority, ſhall iſſue his warrant, directed to all proper officers of his county, requiring them to apprehend the ſaid offender, and convey him to the line of the county, in which the offence is alledged to have been committed, (if an adjoining county) and there deliver him to ſome proper officer. And if there be any county intervening, the ſame precept may be repeated, until the offender be conveyed and delivered to ſome proper officer of the county where the offence is alledged to have been committed.

May iſſue warrant to apprehend perſons eſcaping from any other ſtate, for a criminal offence

SEC. 28. *And it is hereby further enacted*, That where proceſs ſhall have iſſued in any of the United States againſt any perſon for a a crime alledged to have been committed in ſuch ſtate, and the perſon againſt whom the proceſs iſſued ſhall make his eſcape into this ſtate, any two juſtices of the peace on application and ſufficient proof that ſuch proceſs iſſued from lawful authority, ſhall iſſue their warrant to all proper officers in the county, for which ſuch juſtices are commiſſioned, or to any perſon by name, who ſhall be under oath to the faithful execution thereof, requiring the perſon or perſons to whom the ſaid warrant ſhall be directed to apprehend the ſaid offender if he may be found in ſuch county; and the juſtices to whom the ſame warrant

ſhall be returned, may, if they think proper, on examination ſend by warrant ſuch offender to the line of this ſtate, next to the ſtate in which the original proceſs iſſued, that he may be delivered to ſome proper officer there ready to receive and convey him to the place where the offence was committed. And the ſheriffs of the reſpective counties in this ſtate and all other perſons to whom the ſame precept may be directed, are hereby required to obey and execute the ſame, and the perſon applying to have ſuch delinquent apprehended ſhall pay all legal coſt attending the ſame.

May ſummon witneſſes to appear in a court in another ſtate.

SEC. 29. *And it is hereby further enacted*, That when a certificate ſhall iſſue from the clerk of any judicial court in any other of the United States, certifying that there is a criminal cauſe pending in ſuch court and that a perſon or perſons reſiding and inhabiting in this ſtate, is ſuppoſed to be a material witneſs in ſuch cauſe, either in behalf of ſuch ſtate, or the perſon accuſed, any juſtice of the peace in the county where ſuch neceſſary witneſs reſides, on application made to him, ſhall, on the back of ſuch certificate or paper annexed thereto, iſſue a ſummons, requiring ſuch witneſs to appear at the court in which ſuch cauſe is pending, and teſtify. And if any perſon ſo ſummoned, and having tendered unto him a ſum equal to ſix cents for every mile's travel, from the place of ſuch witneſs' abode, to and from the court where the trial may be, and one dollar at the end of every day, for ſuch witneſs' attendance at the place of trial, and ſuch witneſs having no reaſonable excuſe to the contrary, ſhall neglect to appear and teſtify, every perſon ſo neglecting and refuſing ſhall forfeit and pay three hundred dollars, to any perſon, though not an in-

Penalty for not appearing.

habitant of this ſtate, who may ſue for the ſame in this ſtate.

To deliver abſtract of fines to town treaſurer, in December, annually.

SEC. 30. *And it is hereby further enacted*, That every juſtice of the peace within this ſtate, ſhall ſome time in the month of December annually, deliver an abſtract of the fines and penalties by him impoſed the preceding year, to the treaſurer of the town to which the fine or penalty ſhall belong, with a minute of the name of the perſon to whom the execution or warrant for collecting the ſame was delivered, or to whom it was paid, and every juſtice neglecting his duty herein, ſhall forfeit a ſum equal in value to the fine or penalty omitted to be delivered as aforeſaid, one moiety to him or her who ſhall proſecute for the ſame, and the other moiety to the treaſury of the town to which ſuch fine or penalty belonged.

May refer matters in diſpute by rule on conſent of parties.

Report to be made to the juſtice if under forty dollars.

SEC. 31. *And it is hereby further enacted*, That when any two or more perſons, having controverſies ſubſiſting between them, in which the title of land is not concerned, ſhall make application to any juſtice of the peace within this ſtate, ſuch juſtice is hereby authoriſed and empowered, to iſſue his rule to three or more perſons mutually agreed upon by the parties, as referees, empowering them to proceed to notify the parties, and to hear and determine the matters ſubmitted by ſaid rule. And where the matters in demand do not exceed forty dollars, they ſhall by the rule and order thereon from the ſaid juſtice, be directed to report to the ſaid juſtice at a time and place by him therein ſpecified, which report of the ſaid referees, or a majority of them, made in writing under their hands, and delivered to the ſaid juſtice by the time in his ſaid order expreſſed, and by him approved and recorded, ſhall be concluſive and final between the par-

ties, touching the matters ſo ſubmitted, and execution ſhall iſſue accordingly.

If over, to the county court.

SEC. 32. *And it is hereby further enacted*, That where the matters in demand ſo referred, ſhall exceed the ſum of forty dollars, it ſhall be the duty of the juſtice to iſſue his rule and order to the referees ſo mutually choſen, to make report to the next county court, within the ſame county, where ſuch juſtice reſides, whether it be an adjourned or ſtated ſeſſion thereof, which report if approved, by the county court, ſhall be recorded, and be concluſive and final between the parties, touching the matters ſo referred, and execution ſhall iſſue thereon in the ſame manner as when a rule is originally iſſued from ſaid court.

SEC. 33. *And it is hereby further enacted*, That the following be the form, the rule and order thereon, as nearly as circumſtances will admit, *to wit*,

Form of the rule.

" State of Vermont, } ſs. } To A. B. and C. of Greeting.

" Whereas E. of and F. of have mutually agreed to ſubmit by rule of court agreeable to the ſtatute in that caſe made and provided,

being matters of controverſy between them (together with all demands, if the parties ſo agree) to the determination of you the ſaid A. B. and C. and that you the ſaid A. be chairman, that you appoint the time and place of meeting and notify the parties, and if the parties do not appear on due notice, that you the ſaid A. B. and C. proceed *exparte*; and that the deciſion of a majority of you ſhall be final. And whereas the ſaid E. and F. have made application in writing under their hands, of this date, to me G. M. one of the juſtices of the

peace, within and for the county of that I make the ſame a rule of my court—I do therefore hereby authoriſe and empower you the ſaid A. B. and C. to proceed as referees between the ſaid parties, agreeably to the rule aforeſaid, and to cauſe the report by you made in writing under the hands of thoſe of you who ſhall agree, (if returnable before the juſtice) to be returned to me, dwelling houſe in in the county of on the day of at o'clock noon, to which time and place this court will ſtand adjourned, for the purpoſe of receiving ſaid report, and rendering judgment thereon, according to law. (If returnable before the county court) to be returned into the county court, next to be holden at within and for the county of on the next.

"Given under my hand at this day of A. D.
"G. M. Juſtice of the Peace."

Paſſed March 4, 1797.

CHAPTER XLVII.

An ACT *for regulating and governing the* militia *of this ſtate.*

SECTION. 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That each and every free, able bodied white male citizen of this ſtate, or of any other of the United States reſiding within this ſtate, who is or ſhall be of the age of eighteen years, and under the age of forty five years, (excepting as is herein after excepted) ſhall ſeverally and reſpectively be ſubject to the requiſitions of this act, and ſhall be enrolled in the militia by

Militia how and by whom to be enrolled.

the captain or commanding officer of the company, within whoſe bounds ſuch citizen ſhall reſide, within three months from and after the paſſing of this act.

And it ſhall be at all times hereafter the duty of the commanding officer of every ſuch company to enrol every ſuch citizen as aforeſaid, and alſo thoſe who ſhall from time to time arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty five years, and not herein after excepted, ſhall come to reſide within his bounds, and ſhall without delay notify ſuch citizen of the enrolment, by a non-commiſſioned officer or other perſon duly authoriſed for that purpoſe, by whom ſuch notice may be proved.

And in all caſes of doubt reſpecting the age of any perſon enrolled, or intended to be enrolled, the party queſtioned ſhall prove his age to the ſatisfaction of the commanding officer of the company within whoſe bounds he may reſide.

Who exempted.

SEC. 2. *And it is hereby further enacted*, That the vice-preſident of the United States, members of congreſs of both houſes, with their reſpective officers; members of the council and houſe of repreſentatives, with their officers; ſecretary and treaſurer of the ſtate; officers judicial and executive of the government of the United States; juſtices of the ſupreme and county courts; judges of probate, county regiſters, juſtices of the peace, ſheriffs, deputy ſheriffs, high bailiffs, conſtables, ſelectmen, miniſters of the goſpel, elders and deacons of churches, and thoſe of the religious denomination of quakers, officers and ſtudents of college, alſo ſuch phyſicians, ſurgeons, ſtated ſchool maſters, ferry men and millers, as the ſelectmen of the town to which they ſhall

ſeverally belong, ſhall by a writing under their hands ſignify the expediency of exempting; all cuſtom houſe officers and ſtage drivers actually employed in the care and conveyance of the mail, and all perſons who have heretofore been commiſſioned, and alſo non-commiſſioned officers in the line of the army of the United States, or in the militia of this, or either of the United States, who have been honorably diſcharged, ſhall be, and hereby are exempted from ſaid enrolment.

Diviſions brigades and regiments how and by whom arranged.

SEC. 3. *And it is hereby further enacted*, That the governor, by and with the advice of the council, ſhall arrange the whole of the militia into diviſions and brigades.

And the ſeveral major-generals, by and with the advice of the commanding officers of brigades, in their reſpective diviſions, ſhall from time to time, arrange the brigades into regiments and battalions,

And the field officers of regiments are empowered to arrange their regiments reſpectively, into companies, and to make ſuch alterations as from time to time ſhall be found neceſſary.

And if the ſame be convenient, each brigade ſhall conſiſt of four regiments; each regiment of ten companies; and each company of ſixty-four effective privates.

Provided notwithſtanding, That the preſent arrangement of the militia ſhall continue as it now is, until the governor with the advice of the council ſhall otherwiſe order.

And each new diviſion, brigade, and regiment, ſhall be numbered at its formation, and a record be made of ſuch number, in the adjutant-general's office.

SEC. 4. *And it is hereby further enacted*, That the militia ſhall be officered as follows,

How officered.

to each diviſion one major-general, and two aids-de-camp, with the rank of captain.

To each brigade one brigadier general, with one brigade inſpector, to ſerve alſo as brigade major, who ſhall be appointed by the brigadier-general, from one of the majors belonging to the line; and one aid-de-camp, with the rank of captain. To each regiment, one lieutenant colonel commandant, and two majors, to be appointed by the captains and ſubalterns of the regiments reſpectively.

To each company of infantry, one captain, one lieutenant, and one enſign, four ſerjeants, four corporals, and at leaſt one drummer and one fifer.

That there ſhall be a regimental ſtaff, to conſiſt of one adjutant and one quarter-maſter, to rank as lieutenants; one ſurgeon and one ſurgeon's mate, to be appointed by the field-officers of the regiment, and commiſſioned by the governor; one ſerjeant-major, one quarter-maſter ſerjeant, one drum major, and one fifemajor.

That to each brigade there may be one company of artillery, which ſhall conſiſt of one captain, two lieutenants, and one enſign; four ſerjeants, four corporals, ſix gunners, ſix bombardiers, one drummer, one fifer, and not leſs than twenty-four, nor more than thirty privates or matroſſes.

And there ſhall be at leaſt one troop of cavalry to each brigade, to conſiſt of one captain, two lieutenants, and one cornet; four ſerjeants, four corporals, one ſaddler, one farrier, one trumpeter, and not leſs than thirty, nor more than fifty privates.

That to each regiment there may be two companies of light-infantry, to conſiſt each of one captain, one lieutenant, one enſign, four

ſerjeants, four corporals, and at leaſt one drummer and one fifer, and ſixty-four privates.

And there ſhall be one adjutant-general, who ſhall be ſole aid-de-camp to the captain-general, unleſs in actual ſervice, when he may appoint from the officers in ſervice, as many aids-de-camp as he may conceive neceſſary; which aids-de-camp ſhall have no other rank than they ſhall derive from the line of the militia.

And there ſhall be one commiſſary of military ſtores for the whole militia, to be appointed by the governor, with the advice of council.

Field and other officers how choſen.

SEC. 5. *And it is hereby further enacted*, That each brigadier-general be, and he is hereby empowered, and it ſhall be his duty to give all ſuch orders as ſhall from time to time be neceſſary, for electing field-officers, captains and ſubalterns, in regiments and companies, within his brigade, which ſhall not have been already commiſſioned, and for filling up vacancies of ſuch officers, or any of them, where they now are or may hereafter happen.

Provided always That when any time ſhall be appointed for the election of any field or commiſſioned officer, the electors ſhall have at leaſt ten days' notice thereof.

And all returns of elections and neglects or refuſals, to make choice of officers, ſhall be made to the governor, by the brigadier-general, in whoſe brigade the election ſhall be ordered.

And all commiſſions ſhall paſs through the hands of the brigadier-generals, to the officers in their reſpective brigades, for whom they ſhall be made out.

And every perſon who ſhall be elected to any office in the ſaid militia, and ſhall not within fifteen days after he ſhall have been notified of his election, excepting major and brigadier-general, (who ſhall be allowed thirty days after they ſhall be notified by the ſecretary of the ſtate) ſignifying his acceptance thereof, ſhall be conſidered as declining to ſerve in ſuch office, and orders ſhall be forthwith iſſued for a new choice.

To take the oath of allegiance, and to ſupport the conſtitution of the United States, before a general or field officer. Certificate of oath to be made on commiſſion.

SEC. 6. *And it is hereby further enacted*, That every perſon who ſhall be lawfully entitled to be commiſſioned to any office in the militia of this ſtate, ſhall at the time of receiving his commiſſion, take and ſubſcribe the oath of allegiance required by the conſtitution, and alſo the oath to ſupport the conſtitution of the United States, before ſome general or field-officer, who ſhall have previouſly taken and ſubſcribed the ſame, and who is hereby authoriſed to adminiſter the ſame.

And a certificate thereof ſhall be made on the back of every commiſſion, by the general or field-officer, before whom the oath ſhall hav been taken and ſubſcribed.

Non-commiſſioned and ſtaff-officers how choſen.

SEC. 7. *And it is hereby further enacted*, That the field-officers may appiont the non-commiſſioned ſtaff-officers of their reſpective regiments. And the ſeveral companies may elect their non-commiſſioned officers. And all non-commiſſioned ſtaff officers and ſerjeants ſhall receive warrants under the hand of the commanding officer of their reſpective regiments. And the adjutant ſhall keep a record in a ſuitable book, to be by him kept for that purpoſe, of all warrants which ſhall be iſſued. And no non-commiſſioned officer or private ſhall be diſenrolled from the militia for diſability, without a certificate from the regimental ſurgeon to the

acceptance of the commiſſioned officers of their reſpective companies.

Orderly ſerjeants how appointed.

SEC. 8. *And it is hereby further enacted*, That the officers of each company ſhall appoint an orderly ſerjeant, from the liſt of ſerjeants, who ſhall take the following oath, viz.

Oath.

"You ſwear, truly to perform the office of orderly ſerjeant, and to the utmoſt of your ſkill and ability, to do and perform with truth and fidelity, all things appertaining to the ſaid office of orderly ſerjeant, according to law.——So help you God.

Duty.

And it ſhall be the duty of every orderly ſerjeant to keep a fair and exact roll, of the company to which he belongs, together with a ſtatement of the arms and accoutrements belonging to each man, which roll he ſhall annually reviſe and correct, in the month of June, as is in this act herein after directed.

To regiſter all orders in orderly book.

Book not to be alienated.

And it ſhall further be his duty to regiſter all orders and proceedings of the company in an orderly book, (which book ſhall never be alienated from the company,) to keep exact details of all detachments, and to call the roll of the company, when aſſembled, to examine the equipments when thereunto required; to note all delinquencies and to receive and pay over to the commanding officer of ſaid company, all fines and forfeitures, which are by this act directed to be recovered, in truſt, for the uſe of the company to which he belongs.

General, field and other officers how diſcharged.

SEC. 9. *And it is hereby further enacted*, That no general or field-officer ſhall be diſcharged, excepting by the commander in chief; or other commiſſioned officer, excepting by the brigadier-general, or officer commanding the brigade, to which ſuch officer belongs, on

the requeſt of ſuch officer in writing, or by order of law, or by actual removal, or by twelve months' abſence from the diſtrict of his command.

And no officer ſhall conſider himſelf exempted from the duties of his ſtation, until he ſhall have been diſcharged in one or other of the methods aforeſaid.

No officer ſhall be allowed to reſign his commiſſion when under arreſt; and no general officer ſhall approve the reſignation of any other officer, until ſuch officer ſhall have lodged in his hands all ſuch militia laws, and orderly books, as he ſhall have been furniſhed with by the government.

Books to be delivered to ſucceſſors

And ſuch general officer, ſhall deliver the books aforeſaid, to the next ſucceeding officer, who ſhall be commiſſioned in the place of him who ſhall have reſigned.

SEC. 10. *And it is hereby further enacted*, That the brigadier-generals in their reſpective brigades be, and hereby are authoriſed to complete the cavalry in their reſpective brigades, to at leaſt one full troop in each brigade, and there ſhall in no caſe be more than one troop of cavalry to each regiment, and they ſhall be annexed to ſuch regiments as the commanding officer of the brigade ſhall direct; and ſhall be under the command of the commanding officer of the reſpective regiments to which they are annexed.

Companies of cavalry, how formed and equipped

And the officers of the cavalry, ſhall furniſh themſelves with good horſes, at leaſt fourteen hands and an half high, and ſhall be armed with a pair of piſtols, and ſword, the holſters of which ſhall be covered with bear-ſkin caps.

Each horſeman ſhall furniſh himſelf with a ſerviceable horſe, of at leaſt fourteen hands and an half high, a good ſaddle, bridle, mail pillion and valiſe, holſters, a breaſt plate and crupper, a pair of boots, and ſpurs, a pair of piſtols and ſabre, and cartridge-box to contain twelve cartridges for piſtols.

No man ſhall be enliſted into any troop of cavalry, unleſs he ſhall own and conſtantly keep, a ſuitable horſe and furniture for that ſervice.

And if any perſon who ſhall belong to any troop of cavalry, ſhall be deſtitute of a ſuitable horſe and furniture, for more than three months at any one time, he ſhall be diſcharged from ſuch corps, and be enrolled in the ſtanding company in which he reſides.

And when any draft or detachment ſhall be made from a troop of cavalry for actual ſervice, the men thus drafted, or detached, ſhall march with their own horſes; and before they march the horſes ſhall be appraiſed by three indifferent men, to be appointed by the commanding officer of the brigade, from which ſuch detachment ſhall be made.

Artillery companies how formed and equipped.

SEC. II. *And it is hereby further enacted*, That each brigadier, in his reſpective brigade, be, and hereby is authoriſed to complete one full company of artillery, to be attached to his brigade.

And each company of artillery ſhall be provided with one good field-piece, with a carriage and apparatus complete, to be provided by the commiſſary general of military ſtores, at the expence of the ſtate; whoſe duty it ſhall be, as ſoon as may be, to provide and furniſh the ſame.

The officers of artillery ſhall be armed with a ſword or hanger, each, and each private or matroſs with a ſword.

And each non-commiſſioned officer, and private or matroſs of thoſe companies, which are unprovided with field-pieces, ſhall furniſh himſelf with all the equipments of a private in the infantry, until proper ordnance and artillery is provided.

Officers accountable for pieces and apparatus.

And the commanding officer of each company of artillery ſhall be accountable for the careful preſervation of the pieces and apparatus provided by government,

Each company of artillery, and troop of cavalry, and alſo each company of light infantry, ſhall be formed of volunteers from the brigade. Which companies of artillery and cavalry, ſhall not exceed one eleventh part of the infantry.

Militia polls exempt from ſtate taxes.

And the non-commiſſioned officers and privates of the companies ſo raiſed at large, from the brigade, ſhall be holden to ſerve in the companies into which they ſhall have enliſted, until they ſhall be diſcharged by their reſpective commanding officers of ſquadron, battalion or regiment. And the companies of infantry when they ſhall be equipt according to law, their polls ſhall be exempted from ſtate taxes.

And the ſeveral companies of cavalry when they ſhall be equipped according to law, their polls and horſes ſhall in like manner be exempted.

Provided nevertheleſs, That when an officer or private of the cavalry, ſhall keep and uſe a ſtallion, no more than the valuation of an ordinary horſe on the liſt ſhall be exempted.

Non-commiſſioned or privates of cavalry

SEC. 12. *And it is hereby further enacted,* That if any non-commiſſioned officer or private of the cavalry, artillery or light infantry, ſhall neglect, for the term of three months, to keep himſelf provided with an uniform of the

company to which he belongs, as is directed by this act, he ſhall be diſcharged from ſuch corps by the commanding officer of the regiment, ſquadron or battalion; and be enrolled in the ſtanding company in which he reſides.

&c. neglecting their uniform for three months to be diſcharged.

And no perſon enliſting into any company of artillery, cavalry or light infantry, ſhall be conſidered as diſcharged from ſaid company, until equipt agreeably to the requiſitions of this act, for the company into which he ſhall enliſt.

No perſon to be diſcharged after enliſtment until equipt.

And no company of cavalry, artillery or light infantry, ſhall be raiſed within this ſtate, when any of the ſtanding companies will thereby be reduced to a leſs number than fifty effective privates.

Company of cavalry, &c. not to be raiſed when it reduces, &c.

And no officer of any ſuch corps ſhall enliſt any man belonging to a ſtanding company, for the purpoſe of forming and recruiting ſuch corps, when by means thereof, ſuch ſtanding company would be reduced to a leſs number than fifty effective privates, unleſs by ſpecial permiſſion, from the commanding officer of the brigade, to which ſuch company belongs.

Officers of cavalry &c. not to enliſt men from ſtanding companies when it reduces them to leſs than fifty.

And if any ſuch corps raiſed at large, ſhall at any time be deſtitute of commiſſioned officers, and ſhall neglect to fill up ſuch vacancies for one full year, after being ordered to make ſuch election, or if any ſuch corps ſhall be reduced below the number of twenty privates, and remain in that ſituation for the term of one full year, without doing duty as the law directs, then, in either ſuch caſe, ſuch corps raiſed at large as aforeſaid, ſhall by order of the commanding officer of the brigade be diſbanded.

Corps raiſed at large when to be diſbanded.

How enrolled.

And the men who belonged to ſuch delinquent corps, ſhall be enrolled in the ſtanding company, in which they may reſpectively reſide.

Not to have more men than allowed by law.

And no ſuch corps, raiſed at large, ſhall at any time, bear a greater number of men on their rolls, than the law allows neceſſary to conſtitute them.

Commanding officer of ſuch corps to make return of his men in April annually.

And the commanding officer of every ſuch corps, ſhall annually, in the month of April make out a liſt of all the men's names belonging to his corps, and deliver the ſame to the commanding officer of the regiment, or battalion, in whoſe diſtrict ſuch corps is, or may be raiſed,

Such corps if not annexed to regiment ſubject to the orders of the brigadier.

And alſo ſuch corps, raiſed at large, not annexed to any particular regiment, ſhall be ſubject to the orders of the commanding officer of the brigade, in which they ſhall reſpectively be raiſed, and ſhall make their elections and returns in the ſame manner as other corps of the militia.

Infantry officers how armed.

SEC. 13. *And it is hereby further enacted*, That every commiſſioned officer of infantry, whoſe duty ſhall require him to ſerve on foot, ſhall be armed with a ſword or hanger, and an eſpontoon.

And every officer whoſe duty requires him to be mounted, ſhall be armed with a ſword or hanger, and a pair of piſtols.

Brigadiers to direct the uniform of their brigades.

And the uniform, in every inſtance required by this act, ſhall be ſuch as the brigadier generals, within their reſpective brigades ſhall direct.

Privates how armed.

SEC. 14. *And it is hereby further enacted*, That every non-commiſſioned officer and private of the infantry, ſhall conſtantly keep himſelf provided with a good muſket, with an iron or ſteel rod, a ſufficient bayonet and belt, two ſpare flints, a priming wire and bruſh, and

a knapſack, a cartridgebox and pouch, with a box therein, ſufficient to contain at leaſt twenty-four cartridges, ſuited to the bore of his muſket; and ſhall appear ſo armed, accoutred and provided, whenever called out, (excepting) that when called out to exerciſe only; he may appear without a knapſack.

Arms ammunition, &c. exempt from executions.

Provided always, That every citizen enrolled, and providing himſelf with arms, ammunition and accoutrements, required as aforeſaid, ſhall hold the ſame, exempted from all ſuits, diſtreſſes, executions or ſales for debt, or for payment of taxes.

Fine for non-commiſſioned officers and privates not being equipt.

SEC. 15. *And it is hereby further enacted*, That every non-commiſſioned officer or private of the infantry, who ſhall neglect to keep himſelf armed and equipt as aforeſaid, or who ſhall on a muſter day, or at any other time of examination, be deſtitute of, or appear unprovided with the arms and equipments, herein directed (excepting as before excepted) ſhall pay a fine not exceeding ſeventeen cents for a gun, and eight cents for every other article, in which he ſhall be deficient, at the diſcretion of the court before whom trial ſhall be had.

Parents, &c. to furniſh arms, &c.

And all parents, maſters or guardians, ſhall furniſh thoſe of the ſaid militia, who ſhall be under their care and command, with the arms and equipments above mentioned, under the like penalties for any neglect.

Selectmen to furniſh arms, &c. to poor ſoldiers.

And when the ſelectmen of any town ſhall judge any inhabitant thereof, belonging to the militia, unable to arm and equip himſelf in manner aforeſaid, they ſhall, at the expence of the town, provide for and furniſh ſuch inhabitant with the aforeſaid arms and equipments, which ſhall remain the property of the town at the expence of which they ſhall be provided.

Penalty for embezzlement.

And if any ſoldier ſhall embezzle or deſtroy the arms and equipments with which he ſhall be furniſhed, he ſhall upon conviction as aforeſaid, be judged to replace the articles which ſhall be by him ſo embezzled or deſtroyed, and to pay the coſts ariſing from the proceſs againſt him.

Selectmen may bind out delinquents.

And if he ſhall not perform the ſame within fourteen days after ſuch adjudication, it ſhall be in the power of the ſelectmen of the town to which he ſhall belong, to bind him out to ſervice or labor, for ſuch term of time as, in the diſcretion of the ſaid ſelectmen, ſhall be ſufficient to procure a ſum of money equal to the value of the article or articles ſo embezzled or deſtroyed, and pay coſts ariſing as aforeſaid.

Fine for not appearing on muſter days.

SEC. 16. *And it is hereby further enacted*, That every perſon liable to do military duty, who being duly warned, ſhall refuſe or neglect to appear, at the time and place appointed, armed and equipped as by this act is directed, for any muſter, training, view of arms, or other military duty, ſhall pay as a fine for ſuch default, the ſum of two dollars.

Fine for not appearing with arms in good condition

And every perſon who ſhall appear at any muſter with his arms in an unfit condition, ſhall pay a fine of twelve cents for each and every ſuch default.

Proviſo.

Provided nevertheleſs, That it ſhall be lawful for the commanding officer of a company at any time, within eight days after any muſter, training, view of arms, or other duty, to excuſe any perſon for non-appearance, or for any deficiency of equipments, on the delinquent's producing to him ſatisfactory evidence of his inability, to appear or equip as aforeſaid.

Commanding officers may excuſe delinquents.

2d Proviſo.

Provided, That if ſuch delinquent had ſufficient cauſe of abſence, and ſhould neglect

to make his excuſe, within the eight days aforeſaid, upon a proſecution he ſhall be liable to pay coſts at the diſcretion of the court before whom the cauſe is tried. Delinquent to pay coſts.

SEC. 17. *And it is hereby further enacted*, That when the commanding officer of the company ſhall think proper to call his company together, or ſhall be ordered ſo to do by his ſuperior officer, he ſhall iſſue his orders therefor, to one or more of the non-commiſſioned officers, if there be any, and if not, to one or more of the privates belonging to his company, directing him or them to notify and warn the ſaid company to appear at ſuch time and place as ſhall be appointed. Companies how warned.

And every ſuch perſon or perſons who ſhall receive ſuch orders ſhall give notice of the time and place appointed for aſſembling ſaid company, to each and every perſon he or they ſhall be ſo ordered to warn, either by verbal information, or by leaving a written or printed notification thereof, at the uſual place of abode of the perſon thus to be notified and warned.

And no notice ſhall be deemed legal for muſters, for the purpoſe of common and ordinary trainings, unleſs it ſhall be four days at leaſt, previous to the time appointed therefor. But in caſe of invaſion, inſurrection or other emergency, any time ſpecified in the orders ſhall be conſidered as legal. Four days' notice to be given.

And every non-commiſſioned officer, or other perſon, who ſhall neglect to give the ſaid notice and warning when ordered thereto, by the commanding officer of the company to which he belongs, ſhall for ſuch offence forfeit and pay a fine not exceeding four dollars, nor leſs than two dollars, at the diſcretion of the court before whom the trial ſhall be had. Penalty for not appearing.

Proof of notice how made:

And the teſtimony of any perſon under oath, who ſhall have received orders agreeably to law, for notifying and warning any company, or part thereof, to appear at a time and place appointed for any muſter, view of arms or other military duty, ſhall be ſufficient to prove due notice was given to the party againſt whom complaint may be made, unleſs ſuch teſtimony ſhall be invalidated by other ſufficient evidence.

Companies deſtitute of commiſſioned officers, non commiſſioned officers to take charge:

And when a company ſhall be deſtitute of commiſſioned officers, and the commanding officer of the regiment or battalion to which ſuch company belongs, ſhall think proper to call out ſuch company, he ſhall direct his orders to one or more of the non-commiſſioned officers of ſaid company, who ſhall have full power and authority to warn, aſſemble, lead, order, exerciſe and govern ſaid company, conformably to the orders which he or they ſhall thus receive from their ſuperior officer for that purpoſe.

Penalty for diſorderly or unmilitary conduct.

SEC. 18. *And it is hereby further enacted*, That every non-commiſſioned officer and private of the militia, who ſhall be diſorderly or diſobedient, or be guilty of unmilitary conduct, on a muſter or training day, or at any other time when on duty, ſhall be confined during the ſaid training, or muſter, by order of any commiſſioned officer, and ſhall pay a fine not exceeding four dollars, at the diſcretion of the ſenior officer of the regiment, then on duty, ſubject to no appeal or after hearing.

Mode of collecting fines from non-commiſſioned officers and privates.

SEC 19. *And it is hereby further enacted*, That when any non-commiſſioned officer or ſoldier in the militia, ſhall forfeit any ſum of money, ſet and affixed to any default, or offence, by this act, the ſame ſhall be ſued for and collected in the following manner, to wit—The captain or commanding officer of

the company, to which ſuch non-commiſſioned officer or ſoldier ſhall belong, ſhall after the expiration of eight days from the time of committing ſuch offence, direct a ſummons to the orderly ſerjeant of ſaid company, or in his abſence to any other non-commiſſioned officer of the ſame company, in manner herein after preſcribed, who ſhall ſummon the delinquent to appear before the officer iſſuing ſuch ſummons, to ſhow cauſe, if any he has, why judgment ſhould not be rendered againſt him for ſuch offence, which ſummons ſhall be ſerved at leaſt ſix days previous to the time directed in ſuch ſummons for his appearance.

And the officer as aforeſaid, ſhall proceed to hear and render judgment thereon for fine and coſts. And the party ſummoned, may, within one hour, appeal from ſuch judgment to the neareſt field-officer belonging to ſaid regiment, which appeal ſhall be entered with the ſaid field-officer, within ten days after ſuch judgment was rendered, by the perſon praying out the ſame, and ſuch field officer ſhall notify the parties of the time and place of hearing the ſame. Appeal allowed. When to be entered:

And the field officer ſhall proceed in hearing, trying and determining the ſame, as county courts proceed, in appeals made from judgments rendered by a juſtice of the peace, and may affirm ſuch judgment, with additional coſts, or diſcharge the appellant, as he may think juſt and right. Field officers to try appeals:

And ſhould the perſon ſummoned as aforeſaid, neglect to appear before the captain or commanding officer of the company, or the field officer, judgment ſhall be rendered *ex-parte*, and a warrant ſhall iſſue to the orderly ſerjeant, or either of the ſerjeants belonging to ſaid company, who ſhall proceed to collect the Delinquents neglecting to appear judgment to be rendered ex parte:

Warrant of diſtreſs how directed :

ſame, with like power, and be anſwerable to the officer iſſuing ſuch warrant, in the ſame manner as conſtables are in collecting ſtate-taxes.

Delinquent to be committed to gaol in certain caſes :

And the keeper of the gaol in the county where ſuch offender reſides, is hereby commanded to receive and ſafely keep ſuch offender, until he ſhall pay the fine, and all coſts ariſing thereon, or be otherwiſe diſcharged according to law.

And when any non-commiſſioned officer or private ſhall be found guilty of any offence, puniſhable by fine, agreeably to proviſion made in this act, the officer before whom ſuch delinquent ſhall be convicted, ſhall be entitled to receive from ſuch delinquent, the ſame fees, as juſtices of the peace are entitled to by law, for ſimilar ſervices, and the fees for ſerving ſummonſes and warrants ſhall be the ſame as conſtables are entitled to for ſimilar ſervices.

Fees :

General training firſt Tueſday of October and firſt Tueſday of June :

SEC. 20. *And it is hereby further enacted*, That every captain or commanding officer of a company, ſhall call his company together on the firſt Tueſday in October annually, at nine o'clock in the forenoon, for company diſcipline ; and once on the firſt Tueſday of June, annually, for the expreſs purpoſe of examining and taking an exact account of every man's arms and equipments ;

Orderly ſerjeant to make out a roll

At which time every article required by this act ſhall be brought to the place of examination, and it ſhall be the duty of the orderly ſerjeant, or in his abſence, of ſome other perſon, to be appointed on the occaſion, for the time only, by the commanding officer, for that purpoſe, to make out an exact roll of the arms and equipments which ſhall belong to each man.

And every commanding officer of a company, ſhall conſtantly keep by him a roll with the arms and equipments of every man annexed to his name as aforeſaid, from which all detachments ſhall be regularly detailed, and the annual return of the company made.

Commanding officers of companies to keep a roll.

And the ſaid roll ſhall be reviſed, corrected, and completed on the firſt Tueſday of June annually, as aforeſaid.

To detach from roll. And reviſe it in June annually.

And every perſon liable to do duty in the militia, who ſhall be abſent at the examination, or review of arms, in the month of June, as aforeſaid, and ſhall not ſend his arms and equipments to be examined, at the time and place appointed, he ſhall be fined, for every article required by this act, not ſo brought or ſent to be examined, as is herein before directed, beſides the fine for non appearance as herein before directed.

Penalty for not attending general muſter days.

SEC. 21. *And it is hereby further enacted*, That every captain or commanding officer of a company, ſhall make a return of the ſtate of his company with all the arms and equipments belonging to them, to the commanding officer of the regiment, in the month of June annually.

Captains to make returns to the colonels in June annually.

Every commanding officer of a regiment ſhall make a return of the ſtate of his regiment, to the brigadier, in the month of July annually.

Colonel to make return to brigadier in July.

And every commanding officer of a brigade ſhall make out duplicate returns of his brigade, one of which he ſhall tranſmit to the major general of the diviſion to which he belongs, and the other to the adjutant general of this ſtate, in the month of September annually.

Brigadier to make duplicate returns one to the major general and adjutant gen. in Sept.

Penalty for neglect.

Adjutant to collect the fines.

Diſpoſition of ſuch fines

And any officer neglecting to make the returns herein before directed, ſhall be fined by the officer to whom ſuch returns ſhould have been made, a fine of twenty dollars, to be collected by any adjutant in the brigade, and proceeded with as the law directs, which fine ſhall be for the uſe of the regiment or brigade, to which the officer neglecting ſhall belong.

Adjutant general commiſſioned, his rank:

Duty:

SEC. 22. *And it is hereby further enacted*, That the adjutant general ſhall be commiſſioned, with the rank of lieutenant colonel commandant; and it ſhall be his duty to diſtribute all orders from the commander in chief of the militia, to the ſeveral corps, to attend all public reviews, when the commander in chief ſhall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the ſyſtem of military diſcipline eſtabliſhed by this act; to furniſh blank forms of the different returns which may be required, and to explain the principles on which they ought to be made; to keep ſuch roſters and records, as are proper to be kept in his office; to receive from the ſeveral officers of the different corps throughout the ſtate, returns of the militia under their command, reporting the actual ſituation of their corps, their arms, ammunition, and accoutrements, and their delinquencies; and every other thing which relates to the general advancement of good order and diſcipline; all which, the ſeveral officers of the diviſions, brigades, regiments, battalions and companies, are hereby required to make, in the uſual manner, or as the commander in chief ſhall direct, ſo that the ſaid adjutant general may be duly furniſhed therewith.

Returns &c. to be made to the adjutant general:

From all which returns, the adjutant general ſhall make proper abſtracts, and a general return of the whole of the militia of this ſtate, and lay the ſame before the governor or commander in chief, in the month of October annually, and alſo forward a duplicate thereof to the preſident of the United States.

Adjutant general to make abſtract and lay the ſame before the governor and ſend an abſtract to the preſident of the United States in October annually.

SEC. 23. *And it is hereby further enacted*, That it ſhall be the duty of the brigade inſpector, to attend the regimental and battalion meetings of the militia compoſing the ſeveral brigades, to which they belong, during the time of their being under arms; to inſpect their arms and equipments; to ſuperintend their exerciſe and manœuvres, and introduce the ſyſtem of diſcipline eſtabliſhed by this act; to obey all orders which they may from time to time receive from the commander in chief, or other their ſuperior officers; to make return to the adjutant general as herein before directed, and at ſuch other times as ſhall be required of the militia of the brigades, to which they reſpectively belong, reporting therein the actual ſituation of the corps, their arms, ammunition, and accoutrements, and every other thing which they may be required to report, or which in their judgment may relate to their government, and the general advancement of good order, and military diſcipline.

Brigade inſpector's duty.

SEC. 24. *And it is hereby further enacted*, That the rules of diſcipline appointed and eſtabliſhed by the congreſs, in their reſolution of the twenty ninth day of March, A. D. one thouſand ſeven hundred and ſeventy-nine, ſhall be the rules and regulations of diſcipline to be obſerved by the militia of this ſtate, excepting ſuch deviation from ſaid rules as may be neceſſary, by the requiſitions of this act, or ſome other unavoidable circumſtance.

Rules of diſcipline eſtabliſhed

Officers to be furnished with rules at the expence of the ſtate.

And every officer receiving a commiſſion in the militia, ſhall be furniſhed with a book, containing thoſe rules, at the expence of the ſtate.

Regiment to be called out once in two years by the major or brigadier general.

SEC. 25. *And it is hereby further enacted*, That every regiment of militia of this ſtate, ſhall be aſſembled at leaſt once in two years, for regimental review, inſpection and diſcipline, on ſuch days as the commanding officers of the reſpective diviſions and brigades ſhall order (the commanding officers of regiments to point out the place of parade.)

Corps raiſed at large to be reviewed once in two years.

The cavalry, artillery, and other corps raiſed at large, ſhall alſo be reviewed, and inſpected at leaſt once in two years, either with the regiments, and battalions, or by themſelves as the major generals or brigadiers ſhall order, and at ſuch times and places as they ſhall direct.

Commiſſioned officers to fix limits of parade

And each commanding officer of a corps, when on duty, ſhall have full power and authority, to aſcertain and fix certain limits and bounds to their reſpective parades (no road in which people uſually travel to be included) within which no ſpectator ſhall have right to enter, without liberty from ſaid commanding officers.

Spectators not to intrude.

And in caſe any perſon ſhall ſo intrude, within the lines of the parade, after being once forbidden, he ſhall be ſubject to be confined under guard, during the time of the exerciſe, at the diſcretion of the commanding officer.

Senior officers preſent to command.

And when different corps ſhall be aſſembled together, the ſenior officer preſent ſhall command, without any regard to corps whatever.

How to take rank.

And all officers when on duty, ſhall take rank according to the date of their commiſſions; and when two of the ſame grade bear

an equal date, and former pretenſions of a prior commiſſion do not decide, then their rank ſhall be determined by lot, to be drawn by them, before the commanding officer preſent; and when on court martial, before the preſident thereof.

Officers refuſing to obey orders to be tried by court-martial.

SEC. 26. *And it is hereby further enacted*, That every captain or commanding officer of a company, who ſhall neglect or refuſe to call out his company on the firſt Tueſday of October, as the law requires, for diſcipline, and alſo on the firſt Tueſday of June for a view of arms, as directed by this act, or at any other time when thereunto required by his ſuperior officer; or who ſhall at any time excuſe his men for unneceſſary abſence or deficiency, ſhall be tried by a court-martial, and if thereof convicted, he ſhall be reprimanded in orders, or removed from office, at the diſcretion of ſaid court.

Companies to rank according to ſeniority.

SEC. 27. *And it is hereby further enacted*, That at any regimental or battalion muſter the ſeveral companies ſhall form in regiment, or battalion, according to their dignity or ſeniority, and the ſame rule ſhall apply, when different corps are aſſembled together, excepting ſo far as by cuſtom, uſage or neceſſity, the cavalry, artillery, or light troops may be detached from the battalions.

Penalty for not turning out on emergencies.

SEC. 28. *And it is hereby further enacted*, That when, in caſe of actual or threatened invaſion, inſurrection, or other public danger or emergency, the militia or any part thereof, ſhall be ordered out or detached, if any perſon who ſhall be ordered or detached in obedience to ſuch order, being duly notified thereof, and ordered to march from the place of rendezvous, ſhall neglect or refuſe to obey ſuch orders, or ſhall not, within twenty-four hours after he ſhall have been notified as aforeſaid, pay a fine of thirty-four dollars, to the com-

manding officer of the company to which he belongs, or procure an able-bodied man in his ſtead, ſuch perſon ſhall be conſidered as a ſoldier, in ſuch detachment, and be dealt with accordingly,

And when a detachment is made, the officers, non-commiſſioned officers and privates, being able of body, ſhall be detailed from the roſters or rolls which ſhall be kept for that purpoſe.

Penalty for abſconding.

And any perſon who by abſconding, after being detached as aforeſaid, or by deſerting from ſuch detachment, ſhall attempt to evade the puniſhment by law provided for deſertion, he ſhall pay a fine of forty dollars, to be ſued for and recovered by the captain or commanding officer of the company to which ſuch perſon belongs, at any time within twelve months after the diſcharge of ſuch detachment. Such fines as aforeſaid, to be diſpoſed of for the purpoſe of paying ſuch men as ſhall be hired or drafted into ſervice.

Fine to go for hiring men.

Officers refuſing to make detachment to be tried by court martial.

And any officer holding a commiſſion in the militia who ſhall neglect or refuſe to execute any orders he may receive from his ſuperior officer, to make a detachment of the corps under his command, it ſhall be the duty of the officer who iſſued ſuch orders, immediately to arreſt ſuch delinquent officer and bring him to a trial therefor before a court-martial, and forthwith give information thereof to the commander in chief.

And the officer who iſſued the order which ſhall not have been executed as aforeſaid, ſhall, immediately after arreſting the delinquent officer proceed by himſelf or ſome other officer under his command, to make and complete the detachment, ordered as aforeſaid.

Detachments made from unorganised regiments and corps

And when any regiment or company ſhall not be organized, the officer iſſuing the orders for ſuch detachment ſhall, by himſelf or ſome other officer under him, proceed to make and complete the detachment, from any part of the militia of ſuch unorganized corps.

Militia when ordered out to take three days' proviſions

SEC. 29. *And it is hereby further enacted*, That when the militia or any part thereof of any town ſhall be ordered to march for the immediate defence of this ſtate, each officer and ſoldier ſhall provide and take with him, three days' proviſions, unleſs otherwiſe ordered.

Selectmen to provide carriages and further ſupplies of proviſions and camp utenſils.

And the ſelectmen of ſuch town ſhall cauſe carriages to attend them, with further ſupplies of proviſions, and camp utenſils, until notice ſhall be given them to deſiſt, by the officer commanding the militia thus detached.

And the ſelectmen ſhall prefer their accounts for ſuch ſupplies, to the auditor of accounts, for allowance and payment.

Selectmen neglecting to furniſh ſupplies the town to pay a fine:

And when the ſelectmen of any town or diſtrict, from which a detachment ſhall be ordered, ſhall be notified by any officer duly authoriſed thereto, and ſhall neglect or refuſe to furniſh ſuch ſupplies and utenſils, the town or diſtrict to which ſuch ſelectmen belong, ſhall pay a fine not exceeding two hundred dollars, to be ſued for and recovered by any perſon who ſhall proſecute for the ſame; one moiety to the proſecutor, and the other to the uſe of the ſtate, before any court proper to try the ſame.

Officers accountable for camp utenſils:

And the officer to whom ſuch camp utenſils ſhall be delivered ſhall be accountable for the ſame, unleſs broken or loſt by ſome unavoidable accident.

SEC. 30. *And it is hereby further enacted*, That if any officer, non-commiſſioned officer or pri-

Widows and children of officers or ſoldiers killed, entitled to relief;

vate, of the militia, ſhall be killed, or die of his wounds received in the ſervice of this ſtate, his widow, child or children, ſhall be entitled to ſimilar relief, and under the ſame regulations and reſtrictions, as is provided by law in ſuch caſes, for the relief of widows and orphans of perſons killed or dying of wounds received in the ſervice of the United States.

Relief granted to perſons wounded in ſervice

And if any officer, non-commiſſioned officer or private of the militia, ſhall be wounded or otherwiſe diſabled in the ſervice of this ſtate, he ſhall be entitled to ſimilar relief, and under the ſame regulations and reſtrictions, as is provided by law in ſuch caſes, for the relief of perſons wounded or diſabled in the ſervice of the United States.

Govern. or to appoint court martial for trial of general and field officers.

SEC. 31. *And it is hereby further enacted*, That the governor or commander in chief ſhall appoint courts martial, for the trial of all officers above the rank of captain; that the brigadier generals, each within his own brigade, ſhall appoint courts martial for the trial of captains, and all officers under that rank.

Brigadier to appoint courts martial for trial of captains and all under that rank

And it ſhall be the duty of every officer who ſhall appoint a court martial as aforeſaid, to approve or diſapprove of every ſentence of ſuch court martial by them appointed, and no officer who ſhall appoint a court martial ſhall be preſident thereof, nor ſhall any ſentence be put in execution until it ſhall have been approved of as aforeſaid.

Sentence how approved; Court-martial to conſiſt of not leſs than thirteen members.

No court martial ſhall conſiſt of a leſs number than thirteen commiſſioned officers, the preſident of which ſhall not be under the rank of a field officer. And no field officer ſhall be tried by any perſon under the rank of captain. And all officers ſhall take rank on a court martial, by ſeniority of commiſſion without regard to corps.

Judge advocate to be appointed.

And the officer who ſhall appoint a court martial, ſhall at the ſame time, appoint a ſuitable perſon for a judge advocate, whoſe duty it ſhall be impartially to ſtate evidence, both for and againſt the officer under trial, to take accurate minutes of the evidence, and all the proceedings of the court, all of which he ſhall tranſmit, with the judgment of the court thereon, under ſeal, to the officer whoſe duty it is to approve or diſapprove of ſuch judgment.

His duty.

Reſpondent to have ten days' notice.

Every officer to be tried, ſhall have ten days' notice given him of the time and place appointed for the trial; and the officer to be tried ſhall be put in arreſt, ſo as to be ſuſpended from the exerciſe of his office; and ſhall have a copy of the charges exhibited againſt him ten days before the ſitting of ſaid court.

To have copy of charges.

Neglecting to appear to be deemed guilty.

And in caſe any officer for the trial of whom a court martial ſhall be appointed, ſhall neglect to appear and make defence, he ſhall be deemed by ſaid court guilty of the charges, and ſhall be ſentenced accordingly.

Two thirds of the members of court-martial to agree to convict an officer.

In every court martial for the trial of an officer, not leſs than two thirds of the members ſhall agree in the ſentence or judgment of ſaid court, otherwiſe the perſon charged ſhall be acquited.

Trials to be had in the day-time.

All proceedings and trials by court martial ſhall be carried on in the day time; and when the members ſhall be required to give their votes, on a queſtion or deciſion, they ſhall begin with the youngeſt in commiſſion.

Youngeſt to give firſt vote.

Perſons holden to give evidence.

All perſons ſhall be holden to appear and give evidence before any court martial under the ſame penalties for neglect, as are by law

provided for witneſſes in other caſes, when thereunto ſummoned by a juſtice of the peace, for ſuch ſervice, and ſhall be entitled to the ſame fees, to be paid out of the ſtate treaſury. And all witneſſes ſhall be ſworn by the judge advocate before they give their evidence to the court.

Courts-martial to be ſworn.

Before any court martial ſhall proceed to the trial of any officer, the judge advocate ſhall adminiſter to the preſident and each of the members the following oath, viz.

Form of oath.

"You do ſwear, that you will well and truly try the cauſe now before you, between the ſtate of Vermont and the perſon or perſons to be tried, according to evidence, and you do further ſwear, that you will not divulge the ſentence of this court martial, until it ſhall be approved or diſapproved of, and that you will not on any account, at any time, diſcover the vote or opinion of any member, unleſs required to give evidence thereof as a witneſs, by a court of juſtice, in a due courſe of law.

"So help you God."

And the preſident ſhall adminiſter to the judge advocate the following oath, viz.

Judge advocate's oath.

"You do ſwear that you will not, on any account, at any time whatever, divulge the vote or opinion of any member of this court martial, unleſs required to give evidence thereof, as a witneſs, by a court of juſtice in due courſe of law. So help you God."

Ungentlemanlike conduct in officer puniſhed.

SEC. 32. *And it is hereby further enacted*, That every officer holding a commiſſion in the militia, who ſhall be accuſed of any unmilitary conduct, neglect of duty or diſobedience of orders, or who ſhall when on duty appear, or behave himſelf in an unofficer-like manner; or ſhall wilfully injure

thoſe who are under his command, he ſhall be liable to be tried by a court martial, and if found guilty, to be ſentenced by ſaid court to be reprimanded in orders, or to be removed from office.

Puniſhment for ungentlemanlike conduct.

And when a court martial ſhall ſentence any officer to be removed from office, the court ſhall therein adjudge ſuch officer incapable of holding any military commiſſion under this ſtate, for life, or for years, according to the nature and aggravation of his offence. And ſuch ſentence being duly approved by the officer appointing ſuch court martial, ſhall be publiſhed, and remain in full force, unleſs reverſed, ſo far as reſpects diſqualification by the general aſſembly.

Towns to be ſupplied with ammunition.

SEC. 33. *And it is hereby further enacted*, That every town within this ſtate ſhall be conſtantly ſupplied with thirty-two pounds of good gun powder, one hundred weight of lead or muſket balls, and one hundred and twenty-eight flints for every ſixty four ſoldiers, in the militia of ſuch town, enrolled as aforeſaid; and the ſame proportion of each of the aforeſaid articles, for a greater or leſs number.

Penalty for neglect.

And every town which ſhall neglect to keep conſtantly provided with the ſaid articles, ſhall forfeit and pay for the uſe of the county, for every ſixty four men in ſuch town, which ſhall be unprovided with the ſaid articles, the ſum of one hundred dollars, to be recovered by preſentment in the county court, in the county to which ſuch town belongs.

Mode of recovery.

Quarter-maſter's duty.

And it ſhall be the duty of the quarter maſters of each regiment, annually, to inſpect the magazine of each town within his reſpective regiment, and make complaint to the ſtate's attorney of the county, againſt all towns which ſhall neglect to keep conſtantly provided as aforeſaid.

And when any town ſhall have furniſhed themſelves with the magazine as aforeſaid, it ſhall then be the duty of the commanding officers of the ſeveral companies in ſuch towns, to make a return of the ſaid magazine, in the ſame manner as though every ſoldier was provided with half a pound of powder, two pounds of lead or muſket balls, and two ſpare flints.

Unneceſſary firing the evening preceding and ſucceeding and on the day of muſter, prohibited.

SEC. 34. *And it is hereby further enacted*, That no non-commiſſioned officer or private, ſhall unneceſſarily fire a muſket, or ſingle gun, in any public road, or near any houſe, or near the place of parade, on the evening preceding, on the day, or evening of the ſame, on which any troop or company ſhall be ordered to aſſemble for military duty, unleſs embodied, under the command of ſome officer.

Penalty for.

And if any non-commiſſioned officer or private ſhall fire a muſket, gun or piſtol, except as aforeſaid, on the ſaid day and evenings, as aforeſaid, without being embodied as aforeſaid, he ſhall forfeit and pay a fine of one dollar for each and every ſuch offence, to be ſued for, recovered and diſpoſed of, in the ſame manner as fines are recovered and diſpoſed of, for non-appearance on a day of muſter.

Former brigade majors and aids de camp, rank not to be affected.

SEC. 35. *And it is hereby further enacted*, That the regulations of this act ſhall not affect the rank of any brigade major, or aids-de-camp who are already commiſſioned.

SEC. 36. *And it is hereby further enacted*, That the following ſhall be as nearly as circumſtances will permit, the form of the ſummons and warrant, directed to be iſſued by this act, in caſes of delinquency, to wit.

Form of Summons.

" Brigade, } A. D.
Regiment, }

" To orderly ſerjeant, (or other ſerjeant as the caſe may be) of the company in the regiment aforeſaid, GREETING.

Form of ſummons for delinquents.

" You are hereby commanded to ſummon of the town of to appear before me at in ſaid town, on the day of at o'clock noon, to ſhow cauſe if any he has, why he ſhould not be fined according to law, for [here inſert the offence] due return make to me. Dated at &c.

Captain."

Form of Warrant.

" Brigade, } A. D.
Regiment, }

" To orderly ſerjeant, (or other ſerjeant as the caſe may be) of company in the regiment aforeſaid, GREETING.

Form of warrant for collection of fines.

" By the military authority of this ſtate, you are hereby commanded to levy and collect from the goods, chattels or eſtate of in the town of in the county of the ſum of fine, and coſt, amounting in the whole to and for want of ſuch goods, chattels or eſtate, commit him the ſaid to the keeper of the jail in within the ſaid priſon, who is hereby directed to receive the ſaid and him ſafely keep until he ſhall pay the ſame, together with all legal fees.

" Make return of this precept to me, within ſixty days from this date.

" Dated at &c.

Paſſed March 10, 1797.

CHAPTER XLVIII.

An ACT *for the partition of* real eſtate *in certain caſes.*

Preamble

WHEREAS the partition of lands and other real eſtate among the perſons intereſted as joint tenants, tenants in common and coparceners, is often rendered difficult by reaſon of infants being intereſted, or the parties concerned being numerous, out of the ſtate, and unknown, to the detriment of the owners, and the prejudice of agriculture—

Partition may be made between joint tenants, tenants in common, &c.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont,* That any perſon or perſons having or holding, or who may hereafter have and hold any lands, tenements, or hereditaments with others, as joint tenants, tenants in common or coparceners, by petition in writing either by themſelves, their agents, attornies or guardians to the ſupreme court of judicature to be holden in the county in which ſuch lands, tenements and hereditaments do lie, therein particularly deſcribing the eſtate and title by which they hold the ſame, the ſaid court is authoriſed and empowered, to cauſe partition to be made of ſuch lands, tenements or hereditaments, and the ſhare of the ſeveral perſons intereſted, to be ſet off and divided, which partition ſhall be made by three or five judicious and diſintereſted free-holders, to be appointed by ſaid court, as commiſſioners for that purpoſe, and under oath, for the faithful diſcharge of ſaid truſt, (which oath any juſtice of the peace of the ſame county is empowered to adminiſter) and a return thereof being made in writing, particularly deſcribing the lots allotted, to each owner or proprietor, and mentioning which of the owners are minors,

Mode of proceſs by petition.

To be made by commiſſioners appointed by the court under oath.

if any there ſhall be, together with a certificate of their being ſworn, to the court directing the ſame, and being accepted and there recorded, and alſo recorded in the town clerk's office of the town in which the eſtate lies, or for want thereof in the county clerk's office ſhall be valid and effectual, to all intents and purpoſes. To be returned to the court:

SEC. 2. *Provided always, and it is hereby further enacted,* That if the facts alledged in any petition as aforeſaid, ſhall be controverted by any of the joint tenants, tenants in common or coparceners aforeſaid, the anſwer or objection to the petition ſhall be made in writing, in the form of a plea, to which the petitioner or petitioners may reply or demur, ſo that the matter in diſpute may be reduced to an iſſue in law or fact, and receive a determination by the court or jury, in the ſame manner other iſſues are determined, and if the iſſue be determined in favor of the petitioner, or petitioners, judgment ſhall be entered up by the court, that partition be made by diſintereſted free-holders as aforeſaid, and the court ſhall appoint the ſame accordingly, and ſhall award to the petitioners reaſonable coſts of trial, to be recovered of the adverſe party, and may iſſue execution for the ſame, in the form preſcribed by law in other caſes; but if on ſuch pleadings it ſhall be determined, that the petitioner, or petitioners have no right or ſhare in the eſtate claimed, or that he, ſhe or they hold a leſs ſhare than he, ſhe or they have in his, her or their petition alledged, the adverſe party ſhall recover againſt the petitioner or petitioners reaſonable coſts and execution may iſſue accordingly, notwithſtanding judgment may be rendered in favor of the petitioner or petitioners, that he, ſhe or they may have partition, and an aſſignment of ſuch

Defendant to make anſwer to the petition in writing in the form of a plea.

Iſſue of law or fact how tried.

Judgment of court thereon:

part in ſeveralty as he, ſhe or they in fact hold undivided.

SEC. 3. *And it is hereby further enacted*, That it ſhall be the duty of the petitioner or petitioners, to cauſe notice of ſuch petition, to be given to the ſeveral perſons intereſted, in the ſtate to be divided, if living in this ſtate and known, and to the known agent and attornies of ſuch as live without the ſtate, by perſonally ſerving them with a copy of the petition, or leaving the ſame at his, her or their laſt and uſual place of abode, at leaſt twenty days before the ſitting of the court, to which ſuch petition ſhall be made; and if any of the perſons intereſted, ſhall reſide without the ſtate, and ſhall have no known agent or attorney within the ſtate, as aforeſaid, in that caſe the petitioner or petitioners ſhall cauſe the ſubſtance of ſaid petition, to be inſerted in ſome news-paper printed within this ſtate, which ſhall be moſt likely to give information to the perſons intereſted, at leaſt three weeks ſucceſſively, the laſt publication of which, ſhall be, at leaſt, twenty days before the ſitting of the court, to which ſuch petition ſhall be brought.

Petitioner to give notice:

SEC. 4. *Provided nevertheleſs, and it is hereby further enacted*, That before partition be made as aforeſaid, if any infants, perſons *non compos mentis*, or otherwiſe incapacitated to take care of their eſtates, are intereſted, guardians ſhall be appointed for ſuch perſons according to law; and if any perſon intereſted in ſuch eſtate, ſhall be abſent out of the ſtate, and ſhall not appear, after being notified as is before provided in this act, by his agent or attorney, in ſuch caſe, the court ſhall appoint ſome diſcreet and diſintereſted perſon or perſons as agent or agents, for ſuch abſent party or parties, to be adviſing in his or

Guardians to be appointed for infants, &c. before partition be made:

Agents to be appointed for perſons abſent:

their behalf in making ſuch partition, and notice ſhall be given by the commiſſioners, appointed to make partition, in ſome public news-paper as before mentioned in this act, mentioning the time they ſhall attend on ſaid buſineſs, ſo that all concerned may be preſent, if they ſee cauſe, at the time of making the ſame.

Notice to be given by the commiſſioners.

SEC. 5. *And it is hereby further enacted*, That when it ſhall appear to the court, that any meſſuage, tract of land or other real eſtate cannot be divided without great inconvenience to the parties intereſted, they may order the ſame to be aſſigned to one of the parties; ſuch party to whom the ſame ſhall be aſſigned, paying ſuch ſum or ſums of money, at ſuch time or times, and in ſuch manner to the other party, or parties, as the commiſſioners, to be appointed by the court, ſhall judge juſt and equitable. And when it ſhall happen that no one of the parties intereſted is willing to take ſuch aſſignment, and pay ſuch ſums as ſhall be ordered as aforeſaid, the court ſhall thereupon give orders to the commiſſioners to ſell ſuch meſſuage, or lands at public or private ſale, as to the ſaid court ſhall ſeem moſt proper; and ſaid commiſſioners ſhall execute good and ſufficient conveyances to the purchaſer or purchaſers thereof, which ſhall operate as an effectual bar, both in law and equity, againſt ſuch owners or proprietors, and all perſons claiming under them; and the monies ariſing therefrom, to pay to the owners or proprietors of ſuch meſſuage and land, their guardians or repreſentatives, as ſhall be directed in ſaid order, retaining in their hands ſuch ſum as ſhall be allowed by the court for their ſervices and expences.

An eſtate which cannot be divided without injury, the whole to be ſet to one:

Parties refuſing to take the aſſignment the eſtate may be ſold:

Commiſſioners to execute conveyances;

Commiſſioners to be paid ſuch ſum for their ſervices as the court ſhall direct.

SEC. 6. *And it is hereby further enacted*, That when partition ſhall be made of any lands, tenements or hereditaments by virtue of this act, the commiſſioners ſhall be allowed ſuch ſum as the court ſhall award for their ſervices and expences, to be paid by the owners or proprietors of the lands, tenements and hereditaments, ſo divided, in proportion to their reſpective rights therein; and in caſe of neglect or refuſal of any of the owners or proprietors, to pay his, her or their proportion of the ſum ſo awarded, the court ſhall order ſo much of the lands, tenements and hereditaments, allotted to ſuch owner or proprietor ſo refuſing or neglecting, to be ſold at public vendue, under their direction, as will be ſufficient to pay his or her proportion of the ſum awarded by the court, together with the coſts of ſuch ſale, and the ſaid commiſſioners ſhall execute good and ſufficient conveyances, to the purchaſer or purchaſers; who ſhall hold the ſame by virtue thereof, as is before provided in this act.

Any owner refuſing to pay, the court may order ſale of lands:

Provided always, That no commiſſioner or any other perſon in truſt for him, ſhall become purchaſers of the land ſo to be ſold, or any part thereof.

No partition ſhall be adjudged void becauſe a former owner had ſold and the real owner had not notice:

SEC. 7. *And it is hereby further enacted*, That no partition of any lands, tenements or hereditaments to be made as aforeſaid, by virtue of this act, ſhall be deemed or adjudged void in conſequence of any owner, proprietor or partner in the ſame, having previouſly executed a conveyance of his or her ſhare or right therein without the knowledge the other owners or proprietors; or on account of ſuch owner, proprietor, or partner ſelling his, her or their right or ſhare, pending ſuch petition, or in conſequence of the perſon or perſons to whom ſuch conveyance was exe-

curred, not being made a party in the last, whose conveyance was not recorded according to law, at the time of notice being given of the petition at the court aforesaid ;— and every share or right in making such partition as aforesaid, which shall be set off or assigned to any person or persons, other than the legal owner or owners, such share or right shall inure to the use and benefit of the legal owner or owners, his, her or their heirs and assigns, in as full and ample a manner, as though the same had been set off, or assigned to said legal owner or owners.

Any person not notified who is aggrieved may petition within three years for redress :

SEC. 8. *Provided nevertheless, and it is hereby further enacted,* That if any partner, owner or proprietor, who at the time of making such petition as aforesaid, was without the state, and had not seasonable notice to be present at the same, shall think any person or persons' share or right, is, or are of more value than the proportion for which it was set off, and is aggrieved thereby, he or she may, within three years after the making thereof, petition the same court, which made the order of partition, for redress in the premises, notifying all persons concerned, in the same manner as is directed in this act, on the original petition, for a partition as aforesaid. And the said court, upon sufficient cause, may order a new partition thereof, to be made, or make such other order in the premises, as they shall judge just and reasonable. And if a new partition shall be ordered, no more shall be taken off from any share or right, than as such share or right shall be adjudged more than the proportion for which it was set off, estimating such lands or real estate, as in the state they were, when first divided. And if any improvements shall be made after the first partition as aforesaid, on the share or right,

Mode of process and proceedings thereon :

which by ſuch new partition ſhall be ſet off as aforeſaid, the partner, owner or proprietor, who made ſuch improvements, ſhall have reaſonable ſatisfaction made him, by the partner, owner, or proprietor, to whoſe ſhare or right the ſame ſhall be added, by the eſtimation of the commiſſioners who ſhall make ſuch new partition, or the major part of them; and the court who ordered partition, are alſo empowered to iſſue execution for ſuch ſatisfaction—And the ſaid commiſſioners ſhall be allowed ſuch ſum for their ſervices and expences, as the ſaid court ſhall award, to be paid by the owners or proprietors of the lands, tenements and hereditaments, and on neglect or refuſal, the ſame proceedings ſhall be had as directed in the ſecond ſection of this act.

Any commiſſioner dying, his power to be exercised by the ſurvivors:

SEC. 9. *Provided nevertheleſs, and it is hereby further enacted*, That if any of the commiſſioners ſo to be appointed to make a partition by virtue of this act, ſhall die before the ſame is completed, their powers ſhall veſt in, and be exerciſed by the ſurvivor or ſurvivors of them.

Petition not to be quaſhed on account of the death of any owner:

SEC. 10. *And it is hereby further enacted*, That no petition for the partition of any lands, tenements or hereditaments, ſhall be quaſhed and ſet aſide, in conſequence of the death of any owner or proprietor, but ſuch owner or proprietor's ſhare or right, ſhall be ſet off to his or her legal repreſentative or repreſentatives; nor becauſe all the parties intereſted in ſuch lands, tenements or hereditaments are not named or ſet up in ſuch petition, but every party who ſhall not be ſet up in ſaid petition, may have his or her name entered therein, and ſhall have his or her ſhare or right ſet off and allotted to him or her, in proportion to his or her intereſt in ſuch lands, tenements or hereditaments.

Nor becauſe all the parties are not named:

SEC. 11. And whereas eſtates in *joint tenancy* are frequently created for want of the knowledge of proper terms to create eſtates *in common*, and the latter are more beneficial to this ſtate, and conſonant to the genius of republics—

It is hereby further enacted, That all gifts, grants, feoffments, deviſes and other conveyances of any lands, tenements and hereditaments, which have been, or ſhall be made, to two or more perſons, whether for years, for life, in tail, or in fee, ſhall be taken, deemed and adjudged to be eſtates in *common*, and not in *joint tenancy*, unleſs it has been, or ſhall be therein ſaid that the grantees, feoffees or deviſees ſhall have or hold the ſame lands, tenements or hereditaments as joint tenants, or in joint tenancy, or to them and the ſurvivor or ſurvivors of them, or unleſs other words be therein uſed, clearly and manifeſtly ſhowing it to be the intention of the parties, to ſuch gifts, grants, feoffments, deviſes or other conveyances, that ſuch lands, tenements and hereditaments ſhould veſt, and be held as joint eſtates, and not as eſtates in common.

Paſſed October 20, 1797.

CHAPTER XLIX.

An ACT *directing the mode of taking* forfeitures, *of* grants *and* charters.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That the ſupreme court of judicature, ſhall have full power to make enquiry by a jury or otherwiſe, as the nature of the caſe may require, into the validity of any grant or charter, or the performance or non-perform-

Supreme court to determine forfeitures of grants.

ance of conditions annexed to, or contained in any grant or grants, charter or charters, made, or hereafter to be made, by the legiſlature of this ſtate, and to determine the ſame according to the uſages of law.

Mode of proceſs:

SEC. 2. *And it is hereby further enacted*, That in all caſes in which the grantee or grantees ſhall have done, or omitted any act or thing, which ſhall amount to a forfeiture of his, her or their grant or charter, the mode of proceſs to aſcertain the fact, and take the forfeiture, ſhall be by writ of *ſcire facias*, ſigned by the clerk or one of the judges of the ſupreme court of judicature, and may be brought forward and proſecuted in the name of the people of the ſtate, by the attorney of the ſtate, or by any other perſon who ſhall think himſelf injured, by the non-performance of the condition of any ſuch grant or grants. And if the grantee or grantees, is, or are known, and inhabitants of this ſtate, the *ſcire facias* ſhall be ſerved and returned in the ſame manner as original writs are directed to be ſerved in civil cauſes. But if the grantee or grantees, is, or are not known, or not an inhabitant or inhabitants of this ſtate, the ſubſtance of the *ſcire facias*, ſhall be inſerted in two or more of the public news-papers in this ſtate, the moſt likely to give notice to the grantee or grantees, for three weeks ſucceſſively, the laſt of which advertiſements ſhall be, at leaſt, thirty days before the ſitting of the court, to which the writ is made returnable. And if the grantee or grantees ſhall not appear upon the return of the writ of *ſcire facias*, or if it ſhall not appear to the court, that ſufficient notice has been given, the court may order ſuch further or other notice to be given, as they, in their diſcretion ſhall think proper. And if the *ſcire facias* ſhall be againſt ſeveral grantees,

claiming under the ſame grant, each may appear for him or herſelf, and make his or her ſeveral plea or anſwer, denying the matters therein alledged, or pleading performance of the conditions of the grant, and putting the iſſue of the fact, if any there be, to the country. And the court ſhall proceed to try ſuch iſſue by the petit jury attending ſuch court, ſworn for that purpoſe, who may return their verdict thereon, generally or ſpecially, as the fact to them, on the evidence, ſhall appear. And if the grantee or grantees after being notified as aforeſaid, ſhall not appear, the court ſhall notwithſtanding, hear the proofs and evidence adduced, and may try the truth of the matters alledged by a jury as aforeſaid.

Private proſecutor to give bonds:

SEC. 3. *And it is hereby further enacted*, That if any other perſon than the attorney for the ſtate, ſhall be proſecutor, he ſhall, before the ſigning of the writ, endorſe his name thereon as proſecutor, and ſhall alſo give ſufficient ſecurity to the judge or clerk ſigning the ſame, to pay all coſts, if he fail to recover in his ſaid ſuit. And if the perſon ſo proſecuting ſhall not finally recover againſt the grantee or grantees in his ſaid ſuit, the court ſhall tax coſts againſt him for the grantee or grantees, as in other civil cauſes, and execution may iſſue therefor againſt ſuch proſecutor.

Coſts how to be paid:

On the verdict of a jury the court may adjudge in equity.

SEC. 4. *And it is hereby further enacted*, That if a verdict of a jury in any ſuch caſe, ſhall be, that the conditions of the grant or charter have been broken, or the grant or charter forfeited, the perſon or perſons againſt whom ſuch verdict ſhall be found, ſhall have liberty to ſhow to the court, their reaſons in writing, if any they have, why ſaid grant or charter, in equity and good conſcience, ſhould not be forfeited; although, by the rigor of

the law, a forfeiture be incurred; and the ſaid court ſhall judge the ſame, according to equity and good conſcience. And if upon due conſideration, the court ſhall adjudge the reaſons ſo ſhewn to be ſufficient, they ſhall briefly recite the ſame in the judgment rendered, which ſhall be, in ſuch caſe, that the grant or charter in equity ought not to be, and is not forfeited. But if no reaſon be ſhewn, or thoſe which be offered ſhall be judged inſufficient, the judgment ſhall be, that the grant or charter is forfeited. And the reaſons, if any, and their inſufficiency ſhall alſo be briefly recited in ſuch judgment. And a copy of the judgment of the court, after it ſhall be recorded, ſhall be tranſmitted by the clerk to the ſecretary of ſtate, within ſixty days after the rendition of ſuch judgment, there to be recorded and kept.

Copy of judgment to be tranſmitted to the ſecretary of ſtate:

SEC. 5. *And it is hereby further enacted*, That in all caſes in which judgment of forfeiture ſhall be given as aforeſaid, the grant or charter ſhall be conſidered as vacated, and the rights, benefits and privileges derived by virtue of ſuch grant or charter, and the poſſeſſion and enjoyment thereof, ſhall immediately thereupon revert, and be re-inveſted in the ſtate. And the ſame may be re-granted in the ſame manner, as though no grant or charter had been made.

Forfeited grants to revert to the ſtate:

SEC. 6. *And it is hereby further enacted*, That in all caſes in which judgment of forfeiture ſhall be rendered, and tranſmitted as aforeſaid, and the thing granted be capable of actual poſſeſſion and occupancy, if the grantee or grantees ſhall neglect or refuſe to deliver up the poſſeſſion, agreeably to this act, poſſeſſion thereof may be obtained, either by the people of the ſtate, or by a ſecond grantee, by a writ of poſſeſſion, directed to the ſheriff, to be iſſued

for that purpoſe, by the court in which ſuch judgment of forfeiture was rendered, on motion to the court, by the attorney for the ſtate, or by the ſecond grantee, or his or her attorney, as the caſe may be.

Provided always, That if a ſecond grantee ſhall make ſuch motion, reaſonable notice thereof ſhall be given to the perſon or perſons ſo in poſſeſſion, and neglecting or making ſuch refuſal, as the court in their diſcretion ſhall order and direct. This act not to extend to grants of land.

SEC. 7. *Provided always, and it is hereby further enacted,* That nothing in this act ſhall be conſtrued to extend to, or affect any grant, or grants, charter, or charters of lands, granted or made, by or under the authority of this ſtate, any thing herein contained to the contrary notwithſtanding.

Paſſed October 23, 1797.

CHAPTER L.

An ACT *relating to* intereſt *on* contracts *made or hereafter to be made.*

IT *is hereby enacted by the General Aſſembly of the State of Vermont,* That no perſon or perſons upon any contract hereafter to be made, ſhall recover, or take directly or indirectly, more than the value of ſix dollars for the forbearance of one hundred dollars for a year, and ſo after that rate, for a greater or leſs ſum, or for a longer or ſhorter time. And any perſon who ſhall upon any contract take, accept, or receive by ways or means of any corrupt bargain, or by covin, or deceitful conveyance, or by any other ways or means whatever, for the forbearing or giving day of payment for one whole year, above the ſum of ſix dollars Intereſt rate of regulated:

for the forbearing of one hundred dollars, for a year, and ſo after that rate, for a greater or leſs ſum, or for a longer or ſhorter time, ſhall forfeit and pay for every ſuch offence, the whole of the uſurious part of ſaid contract, and twenty-five per cent intereſt on the whole ſum of ſaid contract, one moiety thereof to the treaſury of this ſtate, and the other moiety to the perſon who ſhall proſecute the ſame to effect, with coſts, before any court proper to try the ſame.

Provided nevertheleſs, That nothing in this act ſhall extend to the letting of cattle, or other uſages of the like nature, in practice among farmers, or maritime contracts, bottomry, or courſe of exchange, as hath been heretofore, and ſtill is accuſtomed.

Paſſed October 23, 1797.

CHAPTER LI.

An ACT *for the ſupport of the* goſpel.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That when any number or deſcription of perſons, ſhall voluntarily aſſociate and agree to hire a miniſter, to fix on a place or places, or to erect a houſe or houſes for ſocial and public worſhip, all contracts made by ſuch perſons with ſuch miniſter, or with each other, for the purpoſes aforeſaid, ſhall be binding and valid to all intents and purpoſes.—And all aſſociations to be formed under this act as aforeſaid, ſhall have power to hold to themſelves and ſucceſſors, ſuch eſtates, rights and intereſts as they may hereafter acquire, by purchaſe or otherwiſe, and the ſame to ſell and transfer for the benefit of ſuch aſſociation. And when any ſuch number of per-

Voluntary aſſociations to ſupport the goſpel recognized.

Contracts of the aſſociators valid.

ſons ſhall agree to raiſe money by ſubſcription, or upon the liſt of the polls and rateable eſtates of the perſons aſſociating, it ſhall be lawful for the perſons ſo aſſociated, to elect, from time to time, one or more meet perſons to collect the ſame, who ſhall be inveſted with the like powers, and be liable to be proceeded againſt in the ſame manner, as is provided in the caſe of collectors of town-rates.

Such aſſociators may raiſe money by ſubſcription, or taxes.

SEC. 2. *And it is hereby further enacted*, That when any number of the inhabitants of any town or pariſh, exceeding twenty-five, being of a ſimilar ſect or denomination of chriſtians, ſhall think themſelves able to build a meeting-houſe for ſocial and public worſhip; it is hereby expreſsly made the duty of the clerk of ſuch town or pariſh, on application of ſeven ſubſtantial free-holders of ſuch town or pariſh, to warn a meeting of ſuch inhabitants, therein mentioning particularly the time, place and matters to be acted upon, and giving twelve days' notice by poſting the ſame, in ſuch manner as is provided by law, for notifying and warning town-meetings; and the ſaid town or pariſh clerk, if preſent, or in his abſence, one of the ſelectmen of ſuch town or pariſh ſhall preſide at ſuch meeting until a moderator be choſen, and ſuch inhabitants ſhall thereupon be aſſociated and formed into a ſociety, under the name and for the purpoſes for which they aſſembled; and a majority of the inhabitants compoſing ſuch ſociety, ſhall then be veſted with power to chuſe a clerk, treaſurer, aſſeſſors and collector, and ſuch committee or committees as the ſaid ſociety, when met, ſhall judge neceſſary, to carry into effect the object or objects for which they have thus aſſociated; and the clerk of ſuch ſociety, ſo choſen, ſhall thereafter have power to notify and

The inhabitants of a town of a ſimilar denomination may form into a ſociety.

warn all future meetings of ſuch ſociety, or in caſe of his death or abſence, the ſame may be notified and warned by the treaſurer, or by five of the principal inhabitants of ſuch ſociety. And two thirds of the inhabitants of ſuch town or pariſh, who ſhall aſſemble agreeably to ſuch notification or warrant, being legal voters, and of a ſimilar denomination of chriſtians as aforeſaid, ſhall be, and they are hereby authoriſed and empowered to appoint a place or places for ſocial and public worſhip, and to determine on a place or places for building a houſe or houſes for ſocial and public worſhip, and to vote ſuch tax or taxes, from time to time, as ſhall be ſufficient to defray the expence of building and completing ſuch houſe or houſes; and alſo vote to hire or otherwiſe agree with a miniſter to officiate in ſuch town or pariſh, as the miniſter of ſuch inhabitants, for ſuch term of time, and upon ſuch conditions as ſhall be agreed upon by ſuch miniſter, and by ſuch inhabitants as aforeſaid; and alſo further to vote any miniſter ſuch ſettlement and annual ſupport, in monies or otherwiſe, as ſhall be thought will moſt conduce to the peace, happineſs and proſperity of ſuch inhabitants: and to raiſe the ſame by a tax or taxes, from time to time, which tax or taxes ſhall be aſſeſſed on the polls and rateable eſtates of the inhabitants compoſing ſuch ſociety by ſuch aſſeſſors, as ſhall be appointed for that purpoſe, which ſhall be made into a rate-bill, and by ſaid aſſeſſors be delivered, under the warrant of ſome juſtice of the peace of the ſame county, to the collector who ſhall have been appointed by ſuch ſociety, who is hereby inveſted with the like powers, and ſhall be liable in the ſame manner, and the ſame proceedings may be had for and againſt the ſaid collector, in all

May build meeting houſes and levy taxes to defray the expence.

May ſettle a miniſter and ſupport him by taxes.

Collector's power.

things, as in caſes of collectors of town or pariſh rates.

Provided always, That no vote for the purpoſes aforeſaid, ſhall be deemed legal and binding on ſuch inhabitants as aforeſaid, unleſs there ſhall be, at leaſt, twenty-five legal voters in the affirmative.

No vote valid unleſs twenty-five voters in the affirmative.

SEC. 3. *And it is hereby further enacted*, That if ſuch ſociety ſhall agree and vote to build a houſe or houſes for ſocial and public worſhip, as aforeſaid, but ſhall not be agreed on a place or places to erect the ſame, the county court of the county in which ſuch town or pariſh is ſituate, on the application of at leaſt ſeven ſubſtantial freeholders of ſuch ſociety, ſhall appoint a judicious and diſintereſted committee, at the diſcretion of ſuch court, who, at the coſt of ſuch ſociety, ſhall have power, on examination of the premiſes, to point out and deſignate the place or places for erecting ſuch houſe or houſes, and ſhall acquaint the clerk of ſuch ſociety therewith in writing, who ſhall make a record thereof. And ſuch committee ſhall further report the reſult of their doings to the county court by which they were appointed; and if no ſufficient reaſon be ſhown to the contrary, the report of ſuch committee ſhall be accepted, and the place or places therein deſignated, ſhall be eſtabliſhed.

How the place for building a meeting houſe to be aſcertained.

SEC. 4. *And it is hereby further enacted*, That every perſon of adult age, being a legal voter in ſuch town or pariſh, ſhall be conſidered as being of the religious opinion and ſentiment of ſuch ſociety, and liable to be taxed for the purpoſes aforeſaid, unleſs he ſhall procure a certificate ſigned by ſome miniſter of the goſpel, deacon, elder, moderator or clerk of the church, congregation, ſect or denomination to which he belongs, before, or

Who to be conſidered of the ſame denomination.

Thoſe of different ſects to produce certificates;

at the time of such vote, which certificate shall make known the person procuring the same to be of the religious opinion or sentiment of the signer thereof, and to what sect or denomination of christians he belongs, and unless it shall also explicitly appear by such certificate, that he is of a religious opinion or sentiment different from the sect or denomination of such society, which certificate procured as aforesaid, and recorded at large in the town or parish clerk's office in which he resides, shall exempt him and his property, from being taxed for the purposes aforesaid. And it is hereby made the duty of the clerk of such town or parish, to record at large every such certificate. Which certificate shall be as near as circumstances will admit, in the following form, *namely*,

which shall be recorded.

"To all people to whom these presents shall come— Greeting.

"Know ye that I A. B. of &c. minister (or deacon, &c. as the case may be) of the sect or denomination of christians known and distinguished by the name and appellation of congregationalists (or episcopalians, baptists, &c. as the case may be,) do hereby certify that C. D. of is of the same sect or denomination of the subscriber. And that I the said A. B. am minister (or deacon, &c. as the case may be) of the said sect or denomination in the town of in the county of and state of

Form of.

"Attest, A. B. minister, &c.

"Dated at this day of A. D. "

SEC. 5. *And it is hereby further enacted*, That every person of adult age, being a legal voter, who shall move into, or reside in any town or parish, in which there shall be a minister settled or employed agreeably to the tenor of this act, shall be considered as being of

the religious opinion and sentiment with the major part of the society in which he resides; and be liable to pay taxes as aforelaid, after one year's residence, unless he shall procure a certificate, and cause the same to be signed and recorded, as provided in the last preceding section.

Persons moving into a town when liable.

SEC. 6. *And it is hereby further enacted*, That the terms TOWN and PARISH used in this act, shall be descriptive of, and extend to and be understood to comprehend districts, cities or other incorporated places with town privileges.

The terms town and parish, how considered.

SEC. 7. *And it is hereby further enacted*, That all and every act or acts, clause and clauses of acts coming or falling within the purview of this act be, and the same is, and are hereby repealed.

Former acts repealed.

Provided always, and it is hereby further enacted, That nothing in this act shall be construed to alter or make void any contract or agreement for the settlement or support of a minister, or the building of a meeting-house, heretofore made or entered into.

This act not to effect the settlement of any minister under any former act.

Passed October 26, 1797.

CHAPTER LII.

An ACT *directing the appointment of an* auditor of accounts against the state, *and an* auditor or auditors in the treasury department, *and defining their several duties; directing the* treasurer *in his* office *and* duty, *and declaring the manner in which* actions *shall be brought for* debts *due the* state.

SECTION 1. IT *is hereby enacted by the General Assembly of the State of Vermont*, That at every first stated session of the

Auditor of accounts againſt the ſtate how appointed.

general aſſembly, annually, there ſhall be appointed by the joint ballot of the governor and council and general aſſembly, an auditor to be ſtyled, "Auditor of accounts againſt the ſtate," who ſhall be duly commiſſioned by the governor, and under oath for the faithful diſcharge of the duties of his office, a certificate of which oath ſhall be entered on the back of his commiſſion, before he ſhall have power to act.

To be ſworn.

SEC. 2. *And it is hereby further enacted*, That it ſhall be the duty of ſaid auditor, to audit, examine, liquidate and allow all accounts now ſubſiſting, or which may ſubſiſt between this ſtate and any perſon or perſons acting under the authority of the ſame, except ſuch accounts as ſhall fall within the province of the ſupreme court of judicature, or ſuch as are, or ſhall by law be directed to be examined and allowed by ſome other board, perſon or perſons, and draw orders on the treaſurer of this ſtate, for ſuch ſum as he ſhall find juſtly due, including the lawful intereſt thereon, from the time ſuch account or demand accrued, to the time of drawing ſuch order, and all orders ſo drawn ſhall draw the ſame rate of intereſt as orders iſſued by the ſtate treaſurer, do or may bear.

His duty.

Accounts to draw intereſt.

Provided always, That the ſaid auditor ſhall not allow any account or demand for any ſervices done, or for any duty or rights which ſhall have accrued more than two years previous to their being preſented to ſaid auditor, nor ſhall he allow any account for ſervices, without ſufficient documents or vouchers, or other ſatisfactory evidence, that the ſame were performed.

SEC. 3. *Provided alſo, and it is hereby further enacted*, That if the auditor, acting according to his beſt judgment and ability, ſhall

disallow any account, or shall abate any article of demand therein, and any person or persons shall think himself or themselves aggrieved thereby, the said auditor on request of the party so aggrieved, shall refer the same to the general assembly, then sitting, if the same shall be disallowed or abated during any actual session, if not, to the then next stated session thereof.

Party aggrieved, the account to be referred to the general assembly.

SEC. 4. *And it is hereby further enacted*, That the auditor to be appointed as aforesaid, shall keep a fair record of all accounts he shall so allow, entering at large, the names, the dates, and all the particular items constituting such accounts, and shall take from the person or persons in whose favor he shall draw orders on the treasurer, full and ample discharges of the demands respectively.

Auditor to keep records and take discharges.

SEC. 5. *And it is hereby further enacted*, That the said auditor shall transmit to the treasurer of the state, at least thirty days previous to every stated session of the general assembly (and oftener if he see cause) a correct abstract, certified under his hand in his official capacity, of all the orders by him drawn on said treasurer, upon accounts allowed as aforesaid, mentioning therein the time when, the sum for which, and the persons' names in whose favor such orders were severally drawn; and if said auditor shall neglect or refuse to transmit to the said treasurer, such certified abstract, he shall forfeit and pay the sum of one hundred dollars, to and for the use of this state, for every such neglect or refusal; to be recovered by action or information on this statute. And it is hereby expressly made the duty of the treasurer to give notice to the attorney general, if any there be, otherwise to the attorney for the state, in the county

To transmit an abstract to the treasurer.

Penalty for neglect.

where the treaſurer ſhall reſide, of every ſuch neglect or refuſal.

To attend the legiſlature and make a ſtatement of his accounts.

SEC. 6. *And it is hereby further enacted*, That it ſhall be the duty of the auditor of accounts againſt the ſtate, to attend each ſeſſion of the general aſſembly, and lay before them at their firſt ſtated ſeſſion annually, a ſtatement of all the accounts he ſhall have allowed the preceding year, or from the time of his appointment, particularly ſpecifying the ſervices or other cauſe, matter or thing, for which ſuch accounts were ſeverally allowed.

Auditors of the treaſury department how appointed.

SEC. 7. *And it is hereby further enacted*, That at every firſt ſtated ſeſſion of the general aſſembly, annually there ſhall be appointed by the houſe of repreſentatives, one or more perſons to be ſtiled, "Auditor or auditors in the treaſury department," who ſhall be under oath for the faithful diſcharge of the duties of his or their office, a certificate of which oath, having been duly adminiſtered, ſhall alſo accompany his or their report or reports.

To be ſworn.

Their duty.

SEC. 8. *And it is hereby further enacted*, That it ſhall be the duty of the ſaid auditor or auditors, to audit, examine and ſettle all the accounts of the treaſury department, with the treaſurer of the ſtate, and report ſuch ſettlement, together with a particular ſtatement of the ſituation of the treaſury department, as well from other documents, vouchers, certificates and returns, if any ſuch there be, as from the treaſurer's books.

Their power.

SEC. 9. *And it is hereby further enacted*, That the ſaid auditor or auditors ſo to be appointed, ſhall have power to demand of the treaſurer, the exhibition of all books belonging to the department, as well thoſe of original entries, as thoſe in which any tranſfers, ſtatements, memorandums or other accounts ſhall be made; and ſhall alſo have power to re-

quire of the treaſurer, and of any other perſon or perſons who ſhall have in their poſſeſſion, any documents, vouchers or other matters or things relating to ſaid departuent, or of any perſon or perſons whoſe duty it now is, or hereafter ſhall be, to make any returns, certificates, memorandums or reports to ſaid department, all and ſingular ſuch documents, vouchers, returns, certificates, memorandums, reports, or other matters or things, as the ſaid auditor or auditors ſhall conceive requiſite, either to perfect ſuch ſettlement with the treaſurer, or to report a ſtatement of the ſituation of the treaſury department.

Penalty on treaſurer for not exhibiting books.

SEC. 10. *And it is hereby further enacted*, That if the treaſurer ſhall refuſe to exhibit ſuch books, or if the treaſurer or any other perſon or perſons of whom ſuch requiſitions as aforeſaid ſhall be made, ſhall neglect or refuſe to comply therewith, for the ſpace of ten days after ſuch demand or requiſition, he or they ſhall forfeit and pay a ſum not exceeding one thouſand dollars, to and for the uſe of this ſtate, to be recovered on indictment or information: and it is hereby expreſsly made the duty of the ſaid auditor or auditors, to give notice to the attorney general, if any there be, otherwiſe to the attorney of the ſtate in the county where the treaſurer reſides, of every ſuch neglect or refuſal.

Treaſurer's accounts how kept

SEC. 11. *And it is hereby further enacted*, That it ſhall be the duty of the treaſurer of this ſtate, to keep his accounts in the treaſury department, accurately, in proper books to be provided at the expence of the ſtate. And the ſaid treaſurer in his account current with the ſtate of Vermont, ſhall make the ſtate *debtor* for all abatements on ſtate rates or taxes, and for all monies which he ſhall pay out purſuant to any act or order of the general aſ-

ſembly, and for all monies he ſhall pay on debentures, orders or other vouchers drawn on, and preſented to him for payment, by the ſeveral officers of government, and other perſons having authority thereto by law.

SEC. 12. And the ſaid treaſurer in his account current as aforeſaid, ſhall make the ſtate *creditor* for all ſtate rates or taxes which ſhall be granted by the general aſſembly with the intereſt that ſhall be paid thereon, from time to time, and all granting fees and other monies which ſhall be paid purſuant to any act or order of the general aſſembly, and alſo for all fines, forfeitures and impoſitions belonging to the ſtate treaſury.

When to be ſettled.

SEC. 13. *And it is hereby further enacted*, That the treaſurer ſhall ſettle his accounts in the treaſury department with the auditor or auditors to be appointed as aforeſaid, ſome time between the firſt day of September and the firſt day of October annually. And if the ſaid treaſurer ſhall neglect or refuſe to ſettle his accounts with the auditor or auditors as aforeſaid, within the period as aforeſaid, he ſhall forfeit and pay a ſum not exceeding two thouſand dollars, to and for the uſe of this ſtate, for every month he ſhall ſo neglect or refuſe to make ſuch ſettlement, in an action of debt, to be brought in the name of the ſecretary of ſtate. And it is hereby expreſsly made the duty of the auditor or auditors to give notice to the attorney general, if any there be, otherwiſe to the attorney of the ſtate in the county where the treaſurer ſhall reſide, of every ſuch neglect or refuſal.

Penalty for neglect.

To keep accounts of the ſpecific articles of revenue.

SEC. 14. *And it is hereby further enacted*, That the ſaid treaſurer, in proper books to be provided at the expence of the ſtate, ſhall ſtate the accounts of the ſeveral ſums of money by him received for ſtate rates or taxes, or for

granting fees, or other purposes in pursuance of any act or order of the general assembly; and for fines, forfeitures or impositions in such method, as that the net produce of the whole revenue, as well as of every part and branch thereof, and the amount of the several disbursements in discharge of the several demands against this state, in the different departments of government may distinctly appear, and lay the said accounts from time to time, with all his other official transactions before the general assembly, as he shall be required. And if the said treasurer shall divert, misapply or conceal any of the public treasure, he shall forfeit and pay to and for the use of the state, double the money or monies, he shall be so found to have diverted, misapplied, or concealed, on conviction thereof before the supreme court, by bill, plaint, information or otherwise; and shall be rendered incapable of holding said office, after the period for which he was elected, has expired. Penalty for embezzlement.

SEC. 15. *And it is hereby further enacted*, That the treasurer of this state, before he shall have power to act, shall give security, by executing a bond, with one or more sureties, to the secretary of state, in behalf of the general assembly, to be approved by and before the governor and council in the penalty of one hundred thousand dollars, which bond shall be of the following tenor, namely, Shall give bond.

"Know all men by these presents, that I A. B. of in the county of as principal, and we C. D. and E. F. of in the county of as sureties acknowledge ourselves jointly and severally indebted to G. H. of in the county of secretary of the state of Vermont, or to his successor in said office, in behalf of the general assembly thereof, in the penal sum of Form of.

thouſand dollars, current money of this and the United States, for the payment of which well and truly to be made we jointly and ſeverally bind ourſelves, and each himſelf, our and each of our heirs, executors and adminiſtrators, firmly by theſe preſents, ſealed with our ſeals, and dated this day of in the year of our Lord

"The condition of the above obligation is ſuch that if the ſaid A. B. ſhall well and faithfully execute the office of treaſurer of the ſtate of Vermont, for the year enſuing, and ſhall at all times well and faithfully account for all the monies and other matters and things which come into his hands and poſſeſſion, by virtue of his ſaid office, and ſhall well and faithfully perform all and ſingular the other duties and requirements thereof, according to law, then the foregoing obligation to be utterly null and void, otherwiſe to abide and remain in full force and virtue in law.

"A. B. Seal.
"C. D. Seal.
"E. F. Seal.

"Signed, ſealed and delivered, in preſence of }
"I. J.
"K L."

To be kept in the office of ſecretary of ſtate.

Which ſaid bond ſhall be lodged in the hands of the ſecretary of ſtate, and be by him recorded at large in his office, and any certified copy thereof, under the ſeal of ſaid ſecretary, ſhall be received as evidence in any court of law. And the ſaid treaſurer before he enters upon the duties of his office, ſhall take the oath of office, preſcribed by the conſtitution; which oath, ſhall be taken before the governor and council, at the time of executing the aforeſaid bond; and ſhall be adminiſtered, by the governor, or in his abſence,

Shall be ſworn.

by the preſiding officer in council; a certificate of which oath ſhall be entered on the back of the bond, by the perſon adminiſtering the ſame.

To deliver to his ſucceſſor a ſtatement of his accounts.

SEC. 16. *And it is hereby further enacted*, That every treaſurer going out of office ſhall exhibit to his ſucceſſor in office, a particular, full, juſt and true account, of all the monies by him received and expended, to and for the uſe of the ſtate, after his laſt ſettlement with the auditor or auditors of the treaſury department; and from whom, to whom, in what manner, and for what uſes or purpoſes ſuch monies, and the ſeveral ſums thereof, was, or were received or expended; which accounts the ſaid treaſurer going out of office, and the treaſurer for the time being, together with ſuch auditor or auditors as ſhall be appointed by the general aſſembly for that purpoſe, who ſhall be under oath for the faithful diſcharge of his or their duty, ſhall as ſoon as conveniently may be, audit, examine and adjuſt, and ſtrike the juſt balance thereon.—

Pay over monies:

And the ſaid treaſurer going out of office, on the ſettlement of his accounts as aforeſaid, ſhall pay over to his ſucceſſor in office all ſuch balance and ſum or ſums of money, as ſhall appear to be in his hands, or due from him to the ſtate, or for which he is accountable, within ſuch time or times, as the auditor or auditors, to be appointed as in this ſection is preſcribed, ſhall order and direct, or be liable therefor in an action of account.—

Or receive.

And if upon the ſettlement to be made as aforeſaid, there ſhall appear to be a balance due to the treaſurer going out of office, ſuch ſettlement and balance ſhall be reported to the general aſſembly, and the treaſurer for the time being ſhall diſcharge the ſaid balance

agreeably to such provision as shall be made by the general assembly for that purpose.

To deliver to his successor all books of account &c.

SEC. 17. *And it is hereby further enacted*, That the treasurer going out of office, shall at the time of exhibiting his accounts as aforesaid deliver over to his successor in office, all books of account, as well of original entries as of all transfers, memorandums, or registries whatever; and also all former registries, settlements, statements, certificates, returns, and returns made by, to, or with him or his immediate predecessor or predecessors in office, as also all bonds, bills, notes or other obligations, contracts, covenants, securities, pledges or other papers or instruments lodged in his office, or in his hands or possession appertaining to, or relating in any manner or respect whatever, to the treasury department.

Penalty for neglect.

And if the said treasurer going out of office, shall neglect or refuse for the space of ten days, after request or notice by or from the auditor or auditors to be appointed as in the last preceding section of this act is directed, to exhibit his accounts as aforesaid, or to audit, examine and adjust the same, or to deliver over to his successors in office, all books of accounts and other matters and things as before enumerated, as also all bonds, bills, notes or other documents or papers as before mentioned, appertaining to, or in any manner relating to the treasury department, he shall forfeit and pay the sum of one thousand dollars, for every month he shall so neglect or refuse, to be recovered with costs of prosecution, to and for the use of this state, in the name of the treasurer for the time being. And it is hereby expressly declared to be the duty of the auditor or auditors to give notice immediately, to the attorney general, if there be any, otherwise to the attorney of the state in the

county where the treaſurer reſides, of every ſuch neglect or refuſal.

SEC. 18. *And it is hereby further enacted*, That the attorney general, if any there be, otherwiſe the attorney of the ſtate in the county where the treaſurer reſides for the time being, is hereby authoriſed and required to ſue for, proſecute and recover, in the name of the people of the ſtate of Vermont, or in the name of the treaſury thereof, all debts, and ſum or ſums of money due, forfeited or impoſed, or to become due, forfeited or impoſed, of right belonging to the people of the ſtate of Vermont, in any manner whatever; and pay the ſame into the treaſury of this ſtate, for the uſe and benefit of the people thereof. And it is hereby expreſsly made the duty of the treaſurer, and the auditor or auditors to be appointed by this act, reſpectively, and they are hereby required and directed to give notice to the attorney for the ſtate, from time to time, of all debts, or ſum or ſums of money due, or which ſhall become due, forfeited or impoſed, of right belonging to the people of this ſtate, and to furniſh him with ſuch evidence relating to the ſame, as may be in their powers reſpectively.

Debts due to the treaſurer how and by whom collected.

Treaſurer and auditors to give notice of debts due to the attorney general.

SEC. 19. *And it is hereby further enacted*, That in all ſuits or actions for the recovery of any monies due on ſimple contract, brought in the name of the people of the ſtate of Vermont, or in the name of the treaſurer thereof, it ſhall be ſufficient to declare againſt the defendant or defendants in a general *indebitatus aſſumpſit*, and that the particular grounds of ſuch demand, and the ſpecial matter may be given in evidence upon ſuch declaration. And that in any ſuch ſuit or action, judgment may

Form of the action in certain caſes.

be rendered for any part of the fum fo declared for, as the evidence may warrant.

Treaſurer how to pay out monies.

SEC. 20. *And it is hereby further enacted*, That it ſhall not be lawful for the treaſurer of the ſtate to pay or receive any monies on account of the ſtate, but on orders drawn by the governor and council or general aſſembly, for monies previouſly appropriated by act of legiſlation or by judges or clerks of the ſupreme court of judicature, or by the auditor of accounts againſt the ſtate, except in ſuch caſes as ſome future act or acts of the general aſſembly ſhall in expreſs words, and not by inference or implication direct.

Paſſed October 30, 1797.

CHAPTER LIII.

An ACT *directing the appointment of a* ſurveyor-general *and* county ſurveyors, *and regulating their* office *and* duty.

Surveyor general when and how choſen:

To be commiſſioned and ſworn:

His duty.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That the governor, council and general aſſembly, at their ſtated ſeſſion ſhall, annually, elect by joint ballot, a ſurveyor-general for this ſtate, who ſhall be commiſſioned by the governor, and duly ſworn to the faithful execution of his office, and a certificate of his being ſo ſworn entered on the back of his commiſſion, and who ſhall hold his office till the riſing of the next ſtated ſeſſion of the legiſlature, after his appointment; whoſe duty it ſhall be to ſurvey and make out proper charts or plans of all unlocated lands, which ſhall be granted by this ſtate, and return the ſame to the general aſſembly, or to ſuch other board or perſon as he ſhall be directed; and upon

application for that purpoſe, to run the lines, and aſcertain the boundaries of lands already granted or laid out, according to their original grants, and to do any other ſervices proper to be done by a ſurveyor-general. And the ſurveyor-general ſo appointed ſhall have power to employ chainmen, who ſhall alſo be under oath, for the faithful diſcharge of their duty, which oath the ſurveyor-general is hereby authoriſed to adminiſter, and employ ſuch other aſſiſtance as he may, from time to time, find neceſſary. His power.

SEC. 2. *And it is hereby further enacted,* That the ſurveyor general in the execution of his duty, ſhall have power at any time between the firſt day of October, and the laſt day of April annually, to go on to the lands of any perſon or perſons within this ſtate, and to run lines, where he ſhall find it neceſſary to aſcertain any particular courſe, boundary or diſtance, and ſhall not be deemed a treſpaſſer in ſo doing, but ſhall be thereof indemnified.

SEC. 3. *And it is hereby further enacted,* That if any perſon or perſons ſhall, by any way or means, hinder, interrupt or oppoſe the ſurveyor general in the execution of his office and duty, or any other perſon by him employed to aſſiſt in the ſurveying, running, aſcertaining or fixing any line, courſe, diſtance or boundary, the perſon ſo offending ſhall forfeit and pay the ſum of forty dollars, the one moiety to the treaſurer of the county, in which the offence ſhall be committed, and the other moiety to the perſon who ſhall proſecute the ſame to effect, and ſhall alſo be bound to his or her good behavior, with one or more ſureties, at the diſcretion of the court having cognizance of ſuch offence. Penalty for interrupting or obſtructing him.

May appoint deputies.

SEC. 4. *And it is hereby further enacted*, That the ſurveyor-general ſhall have power to appoint a deputy or deputies for any particular purpoſe, who ſhall be ſworn to the faithful diſcharge of the duties of ſuch appointment, and who in the due execution of ſuch deputation ſhall have all the powers, which are herein before given to the ſurveyor general in the execution of his office, and the perſon or perſons who ſhall hinder, interrupt or oppoſe ſuch deputy in the diſcharge of his duty, ſhall ſuffer the ſame penalties as perſons oppoſing the ſurveyor general in the execution of his office and duty.

Their power.

County ſurvevors how appointed.

SEC. 5. *And it is hereby further enacted*, That the reſpective county courts within each county in this ſtate, ſhall have power to appoint, from time to time, as there ſhall be occaſion, one or more perſons ſufficiently ſkilled in the art of ſurveying lands, to be county ſurveyors within the reſpective counties in which they ſhall be appointed, who, being ſworn to the faithful execution of their office, ſhall have power to appoint chainmen, and to adminiſter to them the neceſſary oaths; and who ſhall have the ſame power in their reſpective counties of running lines, aſcertaining and fixing courſes, boundaries, and diſtances as is herein before given to the ſurveyor general in the execution of his office. And if any perſon ſhall hinder, interrupt or oppoſe ſuch county ſurveyor or any perſon aſſiſting him, he or they ſhall be liable to the ſame penalties as perſons oppoſing the ſurveyor general in the execution of his office and duty.

To be ſworn.

Their power.

Penalty for obſtructing them.

SEC. 6. *And it is hereby further enacted*, That every ſurvey bill or certificate of ſurvey made and atteſted by the ſurveyor general, his deputy or a county ſurveyor, purſuant to this

act, may be read and shall be deemed and held as *prima facie* evidence of the truth of such actual survey of which it purports, in any court of record within this state. Survey bills to be prima facie evidence.

Passed October 30, 1797.

CHAPTER LIV.

An ACT *for the support of* schools.

SECTION 1. IT *is hereby enacted by the General Assembly of the State of Vermont*, That each organized town in this state, shall keep and support a school or schools for the instruction of youth, in English reading, writing and arithmetic; and the inhabitants of such towns, in which the youth cannot conveniently be accomodated with one school, are hereby empowered at a legal meeting notified for that purpose, by vote or otherwise, to divide such towns into as many school districts as they shall judge most convenient, which districts may, in like manner, be altered from time to time, as occasion may require. And the inhabitants of such towns, shall appoint one or more judicious person or persons in each district, who, in conjunction with the selectmen of such town, shall be and continue the trustees of the several schools in such towns, till others are or shall be appointed; and such trustees, or a major part of them and their successors in office, shall have power to appoint and remove schoolmasters, to lease the estate and loan the monies which may or shall belong to such schools, or which shall be given for their use, and as trustees to commence, prosecute or defend any suit or suits, action or actions, for or

Towns to support schools.

May be divided into school districts.

Trustees how appointed.

Their power.

on account of any money or other eſtate belonging, or in any wiſe appertaining to ſuch ſchools; and to take leaſes, bonds or other ſecurities to themſelves and ſucceſſors, for the uſe of ſuch ſchools, which bonds, leaſes or other ſecurities, ſhall, by ſaid truſtees be lodged in the office of the town clerk of ſuch towns, there to be kept for the uſe and benefit of ſuch ſchools, ſubject to the controul of ſuch truſtees; and ſuch truſtees ſhall keep a regular and fair account of their doings, and render the ſame to the town by whom they are appointed, as often as they ſhall be required; and all monies and other property ariſing from the leaſe of lands in any town which are, or ſhall be given for the uſe of ſchools in ſuch town ſhall be equally divided between the different ſchool diſtricts according to the number of children in ſuch diſtrict between the age of four years and eighteen years old.

To keep regular accounts.

SEC. 2 *And it is hereby further enacted*, That upon the application of three or more of the inhabitants of any unorganized ſchool diſtrict, in any town, to the ſelectmen of ſuch town for a ſchool meeting in ſuch diſtrict, the ſaid ſelectmen ſhall notify the ſame, by poſting up a notification in writing, for ſuch meeting, in one or more of the moſt public place or places within ſaid diſtrict, therein ſpecifying the buſineſs to be done, and the time and place of holding ſaid meeting, which notification ſhall be poſted up, at leaſt, ſeven days before the time therein ſpecified, and the inhabitants, who ſhall meet purſuant to ſuch warning or notification, ſhall have power to chuſe a moderator, diſtrict clerk, collector of rates, and a committee to ſuperintend the prudential affairs of ſaid diſtrict; and it ſhall be the duty of the ſelectmen or ſome one of them, to be preſent at ſuch meeting, and pre-

School diſtricts how organized.

ſide over the ſame, till a moderator and clerk ſhall be duly choſen.

School diſtrict meetings how warned.

SEC. 3. *And it is hereby further enacted*, That the clerk of any ſchool diſtrict legally choſen as aforeſaid, ſhall have the ſame power of warning a diſtrict ſchool meeting, upon the application of three or more of the inhabitants of ſuch diſtrict, as is herein before given to the ſelectmen, and in the abſence of the clerk, the committee, or any one of them, may have the ſame power in their reſpective diſtricts; and the inhabitants of any ſchool diſtrict, at a legal meeting, holden for that purpoſe, ſhall have power to raiſe money by a rate or tax on the liſt of the polls and rateable property of the inhabitants of ſuch diſtrict, or by ſubſcription or otherwiſe, as they ſhall think moſt proper, for the purpoſe of erecting and repairing ſchool houſes and ſupporting ſchools in ſuch diſtrict.

May raiſe money by tax or otherwiſe.

Provided always, That no money ſhall be raiſed by a rate or tax as aforeſaid, for the purpoſe aforeſaid, unleſs two thirds of the inhabitants, of ſuch diſtrict, who are legal voters in town meetings, and who ſhall attend ſaid meeting, ſhall vote in favor of ſuch rate or tax.

Certain property exempt.

Provided alſo, That no rateable property in ſuch diſtrict, belonging to any perſon or perſons not an inhabitant or inhabitants of ſuch diſtrict or diſtricts, ſhall be liable to be rated or taxed as aforeſaid. And the ſum or ſums of money which ſhall be voted to be raiſed as aforeſaid, by a rate or tax, ſhall be aſſeſſed upon the inhabitants of ſaid diſtrict, in manner aforeſaid, by the committee to be appointed as aforeſaid, and made into a rate bill, and any juſtice of the peace, upon application may iſſue a warrant, to the collector of ſuch diſtrict, authoriſing him to collect the ſame, by

Taxes how aſſeſſed and collected.

the time agreed on by the votes of the inhabitants of ſuch diſtrict, and the collector of ſuch diſtrict ſhall have the ſame power in collecting ſuch rate or tax, as is given by law to the collectors of town rates or taxes, and ſhall be accountable to the committee of ſuch diſtrict for the ſum due on ſuch rate bill, and the committee ſhall at all times be accountable to the diſtrict, for the expenditure of ſuch monies.

How by ſubſcription.

SEC. 4. *And it is hereby further enacted*, That when the inhabitants of any ſchool diſtrict, being legally warned as aforeſaid ſhall vote to raiſe money for the purpoſe of erecting and repairing ſchool houſes, and ſupporting ſchools in their reſpective diſtricts, as aforeſaid, either in whole or in part by ſubſcription, the committee aforeſaid ſhall have power to make a rate bill of the ſame, apportioned on the ſubſcribers according to the intent of the vote and ſubſcription of ſuch inhabitants, which rate bill, together with a warrant as aforeſaid, ſhall be delivered to the collector as aforeſaid, and may by him be collected in the ſame manner, as is before directed in the next preceding ſection of this act; and the collector and committee ſhall be accountable for the ſame in like manner.

School committees' power.

SEC. 5. *And it is hereby further enacted*, That the committee of any particular diſtrict, ſhall have the ſame power over any monies, lands or other eſtate given, granted, or in any wiſe belonging to ſuch particular diſtrict, for the uſe of the ſchool of ſuch diſtrict, and ſhall in like manner be accountable to their reſpective diſtricts, as is before provided in this act, in caſe of truſtees of lands and other eſtate belonging to particular towns, and ſhall alſo have the ſame power of appointing and removing ſchool maſters, within their reſpective diſtricts.

SEC. 6. *And it is hereby further enacted*, That it ſhall be the the duty of the clerk of each diſtrict in every town, annually, in the month of March, to return to the clerk of their reſpective towns, a liſt of the number of children in each reſpective diſtrict, between the age of four years and eighteen years old, and the town clerk ſhall make an entry on record of the ſame.

Clerk of the diſtrict to return to the town clerk the number of ſchol. ars.

SEC. 7. *And it is hereby further enacted*, That the ſeveral towns in this ſtate, may, and ſhall have power, at their annual March meetings, or at any other meeting, warned for the purpoſe to raiſe ſuch ſum or ſums of money, as they ſhall think proper, on the liſt of the polls and rateable property of ſuch towns, for the uſe and ſupport of engliſh ſchools in their reſpective towns, and the ſum or ſums ſo raiſed ſhall be aſſeſſed, and made into a rate bill, and collected in like manner, as other town rates or taxes are aſſeſſed and collected.

Towns may raiſe money by tax for the ſupport of ſchools.

Provided always, That no rateable property ſhall be liable to be rated or taxed for the purpoſe aforeſaid, belonging to any perſon or perſons not an inhabitant or inhabitants of ſuch town.

And the monies ſo raiſed, ſhall be equally divided between the ſeveral ſchool diſtricts, according to the number of children in each diſtrict, between the age of four years and eighteen years old, as aforeſaid, and the ſame ſhall be paid over under the direction of the truſtees of ſuch towns reſpectively, to the committees of the reſpective ſchool diſtricts in ſaid town.

Such monies how divided.

Provided always, That if any ſchool-diſtrict ſhall be deſtitute of a ſchool for the ſpace of one whole year at any one time, ſuch diſtrict ſhall forfeit their right, to their proportion of the money ſo raiſed, and the ſame ſhall be ap-

plied to the use and benefit of the district, or districts, which shall keep and support schools, agreeably to the intent of this act, in proportion as aforesaid.

County courts to appoint trustees of county grammar schools.

SEC. 8. *And it is hereby further enacted*, That the several county courts shall have power to appoint trustees of county schools, in their respective counties, who shall have the same power in all matters and things, relating to their trust, as is by this act given to trustees of town schools; and shall in like manner, be accountable to the respective county courts, by which they are or shall be appointed.

Power of trustees and school committees.

SEC. 9. *And it is hereby further enacted*, That all trustees and committees of schools appointed by virtue of this act, shall have power to purchase any real or other estate, and to sell and alienate the same, for the use and benefit of their respective schools, under the direction of the county courts, towns, or districts, by which they shall be appointed; and if any person or persons entrusted with the care or management of any money, land, or other property, belonging to any county, town, or district school, shall embezzle, misapply or conceal the same, or any part thereof, he or they shall be liable to be removed from his or their trust, and may be sued in an action of account, by the other trustee or trustees of the school to which such money, land or other property so embezzled, misapplied or concealed belonged; and the trustee or trustees, so suing, shall recover judgment, in double the sum so embezzled, misapplied or concealed, for the use and benefit of such school, together with double costs.

Provided always, That this act shall not extend to any estate, granted, or to be granted, by any person or persons, or body corpo-

rate, for the uſe and benefit of any particular ſchool or ſchools, wherein the grantor or grantors, have committed the truſt thereof, to any particular perſon or perſons, with direction for a continual ſucceſſion in ſuch truſt, any thing herein contained to the contrary notwithſtanding.

Paſſed October 31, 1797.

CHAPTER LV.

An ACT *directing the proceedings againſt the* truſtees *of concealed or abſconding* debtors.

Truſtees of abſconding debtors to be ſummoned.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont*, That if any perſon or perſons, ſhall have in his, her or their poſſeſſion, any money, goods, chattels, rights or credits of any perſon who ſhall have ſecretly abſconded from this ſtate, or who ſhall keep concealed within the ſame, any creditor may cauſe ſuch perſon or perſons having ſuch money, goods, chattels, rights or credits, to be ſummoned as truſtee or truſtees of ſuch abſconding or concealed debtor, by a proceſs to be iſſued againſt him, her or them, according to the form in this act preſcribed; which proceſs ſhall be ſerved on the truſtee or truſtees, and on the principal debtor, in the ſame manner, as in caſes of original writs; and unleſs it ſhall appear to the court, on the return of ſuch proceſs, that actual notice had been given to ſuch truſtee or truſtees and the principal debtor, the court ſhall continue the cauſe, and direct notice to be given in the ſame manner, as is provided in the fifty-fifth ſection of an act, entitled, "An act conſtituting the ſupreme court of

judicature and county courts, defining their powers and regulating judicial proceedings." And if judgment ſhall be rendered on ſuch proceſs, without actual notice to the principal debtor, execution ſhall not iſſue, until the plaintiff, in ſuch proceſs, his agent or attorney, ſhall have given bond by way of recognizance, with one or more ſufficient ſureties, in the ſame manner and for the ſame purpoſes, as is provided in the ſaid fifty-fifth ſection of the act aforeſaid.

Bond to be given in certain caſes.

SEC. 2. *And it is hereby further enacted*, That if the ſaid truſtee or truſtees do not appear by himſelf, herſelf, or themſelves, or by his, her or their attorney, at the court to which the proceſs is made returnable, at the term to which he, ſhe or they is, or are ſummoned, or at ſuch after term, to which the ſame cauſe may be continued, on account of ſuch truſtee or truſtees, his, her or their default ſhall be recorded; and the charge of his, her or their having in his, her or their hands or poſſeſſion, monies, goods, chattels, rights or credits of the principal debtor, to the amount of all ſuch ſums as the plaintiff ſhall prove, and recover againſt the principal debtor, in that proceſs, ſhall be taken and deemed to be true, and execution may iſſue againſt him, her or them, his, her or their proper goods, chattels or eſtate therefor, when the ſaid damages and coſts are aſcertained,

Truſtee not appearing judgment may be rendered on default.

SEC. 3. *And it is hereby further enacted*, That if the ſaid truſtee or truſtees, ſhall appear at the firſt term, by attorney, and pray a continuance on account of his, her or their not being able to attend, or for other ſufficient cauſe, ſuch and any further and reaſonable continuance or continuances, ſhall be granted to him, her or them, in the diſcretion of the court. And if it ſhall appear to the court by

Action to be continued if requeſted

affidavit, that the ſaid truſtee or truſtees is, or are infirm and unable to attend in perſon, at the ſaid court, the ſaid court may appoint a commiſſioner to adminiſter the oath to the ſaid truſtee or truſtees, and the ſame proceedings may be had before the ſaid commiſſioner, as far as relates to the examination of the ſaid truſtee or truſtees, and anſwering interrogatories under oath, as are or may be had in the court, when truſtees perſonally appear and anſwer under oath. And the ſaid commiſſioner ſhall cauſe the plaintiff to be notified of the time and place, when and where he will proceed to ſuch examination, that he may be preſent at the ſame.

Commiſſioner may be appointed to put interrogatories.

SEC. 4. *And it is hereby further enacted*, That when the ſaid truſtee or truſtees ſhall appear in his, her or their proper perſon or perſons, at the court, ſuch truſtee or truſtees ſhall, if the plaintiff requeſts it, be put to anſwer interrogatories under oath, as to the money, goods and chattels, rights or credits of the principal debtor, in his, her or their poſſeſſion, at any time before or ſince the ſervice of ſuch ſummons on him, her or them as aforeſaid, which interrogatories and anſwers ſhall, if either party require it, be in writing, and lodged in the files of the court. And if it ſhall appear by the oath of the truſtee or truſtees, or by other evidence, that ſuch truſtee or truſtees had not at the time of ſerving ſuch proceſs as aforeſaid, or at the time he, ſhe or they had notice of ſuch ſuit, or at any time ſince, any money, goods, chattels, rights or credits of ſuch principal debtor, in his, her or their poſſeſſion, judgment ſhall thereupon be rendered in favor of ſuch truſtee or truſtees

Defendant to anſwer interrogatories.

for coſts, and execution may iſſue accordingly; and no further proceedings ſhall be had upon ſuch proceſs againſt the principal debtor, unleſs ſuch principal debtor ſhall have been perſonally notified of the ſuit, or unleſs ſuch debtor ſhall have actually appeared.

Truſtee liable for effects in his hands.

SEC. 5. *And be it hereby further enacted*, That if the ſaid truſtee or truſtees ſhall appear at the court, and it ſhall be made evident by his, her or their oath, or by other proof, that ſuch truſtee or truſtees had money, goods, chattels, rights or credits of the ſaid principal debtor, in his, her or their poſſeſſion, at the time of the ſervice of ſuch proceſs, or at any time ſince, a record thereof ſhall be made, and the ſaid truſtee or truſtees ſhall be liable to the plaintiff, for the money, goods and chattels, rights or credits ſo found in his, her or their hands or poſſeſſion, to the value of the judgment recovered againſt the principal debtor, if ſo much there be; and execution ſhall iſſue on the judgment ſo recovered, againſt the goods and chattels of the ſaid principal debtor in the poſſeſſion of the ſaid truſtee or truſtees.

Provided always, That the court before which ſuch proceſs or action ſhall be brought, ſhall allow the truſtee or truſtees to retain in his, her or their hands and poſſeſſion, of the money, goods, chattels, rights or credits of ſuch principal debtor, ſufficient to indemnify ſuch truſtee or truſtees for his, her or their reaſonable coſt, which ſhall be taxed by the court, if there be ſufficient to ſatisfy the ſame, but if on examination as aforeſaid, it ſhall appear that ſuch truſtee or truſtees had not, at the time of ſerving ſuch proceſs, as aforeſaid, or at the time he, ſhe or they had notice of the ſame, or at any time ſince, ſufficient to indemnify him, her or them, for his, her or

their reaſonable coſts, no judgment ſhall be rendered againſt ſuch truſtee or truſtees on ſuch proceſs. But all proceedings ſhall be ſtaid againſt ſuch truſtee or truſtees, but the court may render judgment thereon in favor of ſuch truſtee or truſtees for the reſidue of ſuch reaſonable coſts, to be taxed as aforeſaid, againſt the plaintiff or plaintiffs in ſuch proceſs, and execution may iſſue accordingly; and no further proceedings ſhall be had upon ſuch proceſs againſt the principal debtor, unleſs he ſhall have had notice of, or actually appeared and anſwered, as is before provided in the fourth ſection of this act.

Provided neverthelefs, That if it ſhall appear on examination as aforeſaid, that ſuch truſtee or truſtees, ſhall have fraudulently endeavored to conceal the money, goods, chattels, rights or credits of the principal debtor, in his, her or their hands or poſſeſſion; or unduly or unreaſonably have delayed the examination and trial of the action, in all ſuch caſes the court ſhall have power to tax coſts, for or againſt the truſtee or truſtees, in whole or in part, according to the equity of the caſe, as ſhall be thought juſt and reaſonable, on conſideration of the whole circumſtances of the caſe, and iſſue execution accordingly.

On a return of *non eſt*, creditors may have *ſcire facias* againſt truſtee.

And it is hereby further enacted, That if execution ſhall iſſue againſt the goods and chattels of the principal debtor in poſſeſſion of the truſtee or truſtees, and a return be made by any proper officer on ſuch execution, that the ſaid truſtee or truſtees ſhall refuſe or neglect to expoſe the ſaid goods and chattels, or to pay the amount of ſuch execution, if there be ſufficient in his, her or their hands and poſſeſſion, the court ſhall on motion of the creditor, grant a rule to ſhow cauſe why execution ſhould not iſſue on ſuch judgment, a-

gainſt ſuch truſtee or truſtees, his, her or their proper goods and eſtate, and upon affidavit of the ſervice of ſuch rule, on the truſtee or truſtees, and no ſufficient cauſe ſhown to the contrary, ſuch execution may be awarded, and in all other caſes, except ſuch as are otherwiſe ſpecially provided and declared, execution ſhall iſſue againſt the truſtee or truſtees, his, her or their proper goods and chattels, or eſtate, for the amount of the ſums in ſuch truſtee's hands and poſſeſſion, belonging to the principal debtor, or ſo much thereof as will anſwer and ſatisfy the plaintiff's legal demand and all coſts, in the ſame manner as if the ſaid debt were the truſtee's own proper debt. And if the ſum ſo found in the hands and poſſeſſion of ſaid truſtee or truſtees, and for which execution hath iſſued, or may iſſue againſt him, his, her or their proper goods or eſtate, be leſs than the ſum recovered by the plaintiff againſt the principal debtor, the court may alſo award execution againſt the principal debtor for the balance; but if the execution awarded againſt the truſtee or truſtees be for goods and chattels of the principal debtor in his, her or their hands and poſſeſſion, the value of which is uncertain, and it ſhall appear to the court, that ſuch goods and chattels will not be ſufficient to pay the whole amount recovered by the plaintiff againſt the principal debtor, the court may in the execution againſt ſuch goods and chattels, order execution to be done for a certain ſum only, and may at the ſame time, award execution for the reſidue of ſuch judgment, againſt the principal debtor, and the ſaid court may and ſhall in all caſes iſſue execution or executions until the judgment be fully ſatisfied.

SEC. 6. *And it is hereby further enacted*, That it ſhall be the duty of the truſtee or truſt-

ees in all cases, to give notice of any such process served on him, her or them, to his, her or their principal debtor; and such trustee or trustees shall have a right to retain in his, her or their hands, so much of the money, goods, chattels, rights or credits of his, her or their principal, as will compensate for his, her or their trouble in giving such notice. And the said trustee or trustees, if he, she or they acknowledge money, goods, chattels, rights or credits of the principal debtor, to be in his, her or their hands, or if it be so found by examination, shall, if he, she, or they request it, be admitted to defend on the part and behalf of the principal debtor, and shall, upon being so admitted, be entitled to one continuance of course, to notify the principal if he hath not been notified, and he, she or they shall have such further continuances, to prepare his, her or their defence, as the court shall adjudge just and reasonable: But if the court shall be of opinion that there is any fraud or collusion between the plaintiff and trustee or trustees, the said court may refuse to admit the trustee or trustees to defend on the part and behalf of the principal, or may admit him, her or them to defend under such restrictions as the court may think proper.

Trustee to give notice to the principal debtor.

Trustee may defend for the principal debtor.

SEC. 7. *And it is hereby further enacted*, That if it shall appear on the return of the process issued, that the principal hath been duly notified, and doth not appear by himself or attorney, to defend, judgment shall be rendered against him for such sum in debt or damages, as the case may be, as the plaintiff shall prove to be justly due, together with legal costs; but if the said principal debtor shall appear at the first term, or at any time before judgment shall be rendered on such process against him,

Judgment to be rendered against principal if he do not appear after notice.

he ſhall have liberty to defend the ſame, by pleading thereto the ſame as in other actions.

Execution to be ſtayed in certain caſes.

SEC. 8. *And it is hereby further enacted*, That in all caſes in which it ſhall be found that the truſtee or truſtees is, or are indebted to the principal debtor, and the time of payment hath not expired, the court ſhall ſtay the execution againſt ſaid truſtee or truſtees, until the time of payment ſhall have expired.

Truſtee to pay in ſpecific articles in certain caſes.

SEC. 9. *And it is hereby further enacted*, That in all caſes in which the contract between the truſtee or truſtees and the principal debtor, ſhall be for the delivery or payment of any ſpecific article or articles, and the time for ſuch delivery or payment ſhall not have expired, the execution ſhall be ſtayed as aforeſaid, and the plaintiff or creditor ſhall be conſidered as the agent of ſaid principal debtor, for the purpoſe of receiving ſuch ſpecific article or articles according to the tenor of ſuch contract, and ſhall cauſe his execution to be levied on ſuch article or articles to the amount of his debt and coſts, and no more, unleſs in caſes in which a diviſion cannot be made, in which caſes the ſurplus ſhall be returned to the principal debtor, when the ſame ſhall be requeſted.

Truſtees to be diſcharged for what is recovered.

SEC. 10. *And it is hereby further enacted*, That the money, goods and chattels, rights or credits of any abſconding or concealed debtor, ſo taken as aforeſaid, by proceſs and judgment of law from the hands and poſſeſſion of any truſtee or truſtees, by any of his, her or their ſaid creditors, ſhall fully acquit, and forever diſcharge ſuch truſtee or truſtees, his, her or their executors or adminiſtrators of, from and againſt all actions, ſuits, damages, payments and demands to be aſked, com-

menced, had, claimed or brought, by his, her or their principal debtor, his, her or th ir executors or administrators for the same; and if any such truſtee be ſued for any thing by him done purſuant to this act, he may plead the general iſſue, and give this act and the ſpecial matter in evidence.

SEC. 11. *And it is hereby further enacted*, That the proceſs before mentioned ſhall be in the form following, *to wit*,

"State of Vermont— } "To the ſher-
county, ſſ. } iff of the county
of his deputy, or either conſtable of in ſaid county,

"GREETING. Form of the ſummons.

"*By the authority of the ſtate of Vermont*, You are hereby commanded to ſummon A. B. of—&c. truſtee of C. D. of—&c. an abſconding or concealed debtor, if to be found within your precinct, to appear before the county court, next to be holden at in and for the county of on the day of then and there to anſwer to E. F. of——&c. upon his the ſaid E. F's declaration againſt the ſaid C. D. in a plea of [here inſert the declaration] to the damage of the ſaid E. F. as he ſays, the ſum of dollars; and the ſaid E. F. further ſays, that the ſaid A. B. hath in his poſſeſſion, money, goods, chattels, rights or credits of the ſaid C. D. to the value of dollars. Hereof fail not, but of this writ with your doings herein make due return according to law.

"Dated at, &c.

"R. H. clerk."

SEC. 12. *And it is hereby further enacted*, That the oath to be adminiſtered, ſhall be of the following form, *to wit*,

"*You ſolemnly ſwear*, That you will juſt, true and direct anſwer or anſwers, make to

ſuch queſtion or queſtions as ſhall be aſked you, relative to the diſcloſure of the money, goods, chattels, rights or credits of C. D. an abſconded or concealed debtor, now in your poſſeſſion, and alſo diſcloſe, fully and unequivocally, the ſum or ſums of money, ſpecific article or articles which are now due, or which will at any future time become due, on any covenant, contract, or promiſe made between you and the ſaid C. D. more than will be ſufficient to balance the ſum or ſums, ſpecific article or articles now *bona fide* due, or which ſhall become due as aforeſaid, from him to you; and alſo make juſt, true and direct anſwers, to all queſtions which ſhall be aſked you, under the direction of the court—[or the commiſſioner authoriſed by the court, as the caſe may be]—touching the buſineſs now under examination—

"So help you God."

Paſſed October 31, 1797.

CHAPTER LVI.

An ACT *preſcribing* forms *of* writs *and other proceedings in courts and courſe of juſtice.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That the following forms of writs in the ſeveral courts within this ſtate, and other proceedings, ſhall as near as circumſtances will admit, be adopted and uſed, *viz*:

Attachment.

FORM of ATTACHMENT.

"State of Vermont— } "To the ſheriff of
county, ſſ. } county, his deputy, or either of the conſtables of in ſaid county,

" GREETING.

" *By the authority of the ſtate of Vermont,* You are hereby commanded to attach the goods, chattels or eſtate of A. B. of to the value of dollars, and him notify thereof according to law, and for want thereof to take the body of the ſaid A. B. if he may be found within your precinct, and him ſafely keep ſo that you have him before the court, next to be holden at within and for ſaid county of on the then and there in ſaid court, to anſwer to C. D. of in a plea of (here inſert the declaration) to the damage of the ſaid C. D. as he ſaith, the ſum of dollars; for the recovery of which, with juſt coſts the ſaid C. D. brings ſuit. Hereof fail not, but of this writ, with your doings thereon, make due return according to law. Dated at in the county of the day of in the year of our Lord one thouſand

" R. H. Clerk, or juſtice of the Peace (as the caſe may be.)

" E. F. recognized to the defendant in the ſum of dollars as ſurety for coſts of proſecution, as the law directs, before me,

" R. H. Clerk, or Juſtice of the Peace, (as before.)

Form of SUMMONS.

" State of Vermont— } county, ſs. } To the ſheriff of county, his deputy or either of the conſtables of in ſaid county, GREETING. Summons

" *By the authority of the ſtate of Vermont,* You are hereby commanded to ſummon A. B.

of to appear before the court, next to be holden at within and for said county of on the then and there in said court to answer to C. D. of in a plea of [here insert the declaration] to the damage of the said C. D. as he saith the sum of dollars, for the recovery of which with just costs, the said C. D. brings suit. Hereof fail not, but of this writ, with your doings thereon make due return according to law. Dated at in the county of the day of in the year of our Lord one thousand

"R. H. Clerk, or Justice of the Peace, as the case may be."

If security for prosecution is required by law, the like minute to be made and signed as in case of attachment.

Form of a writ of EXECUTION.

Execution.

"State of Vermont— } county, ss. } To the Sheriff of county, his deputy or either constable of in said county, GREETING.

"Whereas C. D. of in the county of by the consideration of the court, holden at within and for the county of on the recovered judgment against A. B. of in the county of for the sum of dollars, damages (or debt and damages as the case may be,) and dollars and cents costs of suit, as appears of record, whereof execution remains to be done—

"Therefore,

"*By the authority of the state of Vermont*, You are hereby commanded, that of the goods, chattels or lands of the said A. B. within your precinct, you cause to be levied, and the same being disposed of as the law directs,

paid and satisfied unto the said C. D. the aforesaid sums, being dollars and cents in the whole, with cents more for this writ, and thereof also satisfy yourself for your own fees. And for the want of goods, chattels or lands of the said A. B. to be shown unto you, or found within your precinct, to the acceptance of the said C. D. to satisfy the sums aforesaid, you are commanded to take the body of the said A. B. and him commit to the keeper of the gaol in in the county of within the said prison, who is hereby commanded to receive the said A. B. and him safely keep, until he pay the full sums above mentioned, with your fees, or that he be discharged by the said C. D. the creditor or otherwise by order of law. Hereof fail not, and make due return to me of this writ, with your doings thereon, within days from the date. Dated at in the county of the day of in the year of our Lord one thousand

"R. H. Clerk, or Justice of the Peace."

Execution from a Justice of the Peace to be in the same form as near as may be, *mutatis mutandis*.

Form of the writ of EJECTMENT.

"State of Vermont— } county, ss. } To the sheriff of the county of his deputy or either constable of the town of in said county, GREETING. Ejectment.

"*By the authority of the state of Vermont*, You are hereby required to summon (or attach as the case may be) [here describe the parties and the court &c. the same as in the case of summons or attachment] in a plea that to the said C. D. plaintiff the said A. B. defendant render the seisin and peaceable possession of

a certain tract or parcel of land, with the appurtenances, or a certain meſſuage and tenement with the appurtenances, (as the caſe may be) lying and being in and deſcribed as follows, to wit, of which tract or parcel of land, or meſſuage and tenement (as the caſe may be) the ſaid C. D. on the day of was well ſeized and poſſeſſed in his own right, in fee, and ſo continued thereof poſſeſſed until the day of when the ſaid A. B. without law or right, and contrary to the will of the ſaid C. D. thereinto entered, and ejected, expelled and amoved the ſaid C. D. therefrom, and ever ſince hath and ſtill doth keep out the ſaid C. D. from the premiſes, taking the whole profits to himſelf, which is to the damage of the ſaid C. D. as he ſaith dollars; to recover which, and the quiet and peaceable poſſeſſion of the premiſes, together with juſt coſts, the ſaid C. D. brings this ſuit. Hereof fail not, &c. (as in caſe of attachment)."

If ſurety of proſecution is required the ſame minute to be made as in caſe of attachment.

Form of a writ of *Facias Habere Poſſeſſionem.*

Writ of facias habere poſſeſſionem and ſcire facias and fieri facias.

"State of Vermont—
county, ſs. } To the ſheriff of the county of his deputy or either conſtable of in ſaid county, GREETING.

"Whereas C. D. of by the conſideration of the court, holden at within and for the county of recovered judgment for his title and poſſeſſion of and in a certain meſſuage and tenements, with the appurtenances and privileges, or acres of land, with the appurtenances, (as the caſe may be) lying and being in the town of againſt A.

B. of who had unjuſtly withheld, put out or amoved the ſaid C. D. from his poſſeſſion thereof; and alſo at the ſaid court recovered judgment for dollars, for damages, and the farther ſum of dollars for coſts in ſaid ſuit, as appears of record—

"Therefore,

"*By the authority of the ſtate of Vermont,* You are hereby commanded, that without delay, you cauſe the ſaid C. D. to have poſſeſſion of and in the ſaid meſſuage or tenement with the appurtenances, [or the ſaid acres of land with the appurtenances and privileges, as the caſe may be.] You are alſo commanded that of the goods, chattels or lands of the ſaid A. B. within your precinct, you cauſe to be levied, and the ſame being diſpoſed of as the law directs, paid and ſatisfied unto the ſaid C. D. the aforeſaid ſums of dollars, which to the ſaid C. D. was adjudged for his damages ard coſt, with cents more for this writ, and thereof alſo to ſatisfy your for your own fees, and for the want of goods, chattels, or lands of the ſaid A. B. to be ſhown unto you, or found within your precincts, to the acceptance of the ſaid C.D. to ſatisfy the ſums aforeſaid, you are commanded to take the body of the ſaid A. B. and him commit to the keeper of the gaol in in the county of within the priſon, who is hereby commanded to receive the ſaid A. B. and him ſafely keep until he pay the full ſums above mentioned, with your fees or that he be diſcharged by the ſaid C. D. or otherwiſe by order of law. Hereof fail not, and make due return of this writ to me, with your doings thereon, within days from the date. Dated at in the county of

the day of in the year of our Lord one thouſand

"R. H. Clerk."

Form of the writ of SCIRE FACIAS.

"State of Vermont— }
County, ſs. } To the ſheriff of the county of his deputy, or either conſtable of the town of in ſaid county, GREETING.

Writ of *ſcire facias*

"WHEREAS C. D. of by the conſideration of the court, holden at in and for the county of on the day of in the year of our Lord one thouſand recovered againſt A. B. of the ſum of dollars debt [or damages as the caſe may be], and alſo the ſum of dollars coſt of ſuit in that behalf expended, whereof the ſaid A. B. is convict, as appears of record; and although judgment thereof be rendered yet the execution of the ſaid debt or damages and coſts doth yet remain to be made, whereof the ſaid C. D. hath made application for remedy to be provided in that behalf.—Now to the end that juſtice be done; You are hereby commanded, that you make known to the ſaid A. B. that he be before the next to be holden at within and for the county of on the day of in the year of our Lord, one thouſand to ſhow cauſe, (if any he hath) wherefore the ſaid C. D. ought not to have his execution againſt him the ſaid A. B. for his debt [or damage] and coſts aforeſaid, and further to do and receive that which the ſaid court ſhall conſider, and make due return of this writ, with your doings thereon, according to law. Hereof fail not. Dated at in the county of the day of in the year of our Lord one thouſand

"R. H. clerk."

Form of a WARRANT in favor of Bail againſt the Principal.

Warrant in favor of bail againſt the principal.

" State of Vermont— }
County, ſs. } To the ſheriff of the county of his deputy or either conſtable of in ſaid county,

GREETING—

" Whereas it has been made to appear to me J. P. one of the juſtices of the peace within and for the county of on the application of E. F. of that on the day of at in the county of one A. B. of in the county of was duly arreſted, at the ſuit of C. D. of by virtue of a writ of attachment, demanding dollars damages, returnable to the court, holden (or to be holden) at within and for the county of on the day of on which writ of attachment, the ſaid E. F. became bail for the appearance of the ſaid A. B. by endorſing his the ſaid E. F's name thereon, according to the ſtatute in that caſe made and provided, and the ſame writ is now pending before ſaid court, (or judgment having been rendered thereon againſt the ſaid A. B. and on account of the avoidance of the ſaid A. B. a writ of *ſcire facias* has been ſued out againſt the ſaid E. F. and is now pending, as the caſe may be) and the ſaid E. F. having repreſented that the ſaid A. B. is about to abſcond, and withdraw himſelf, ſo that he may not be taken or ſurrendered in diſcharge of his ſaid bail—

" Therefore,

" *By the authority of the ſtate of Vermont,* You are hereby commanded to take the body

of the ſaid A. B. if to be found within your precinct, and him commit to the keeper of the gaol in in the county of within the ſaid priſon, who is hereby commanded to receive the ſaid A. B. and him ſafely keep, ſo that he may be forth coming to be taken on execution, (or ſurrendered) in diſcharge of the ſaid E. F. in the premiſes, or until the ſaid A. B. be diſcharged by law.—

"Hereof fail not and make due return of this writ to the court to be holden at in and for the county of on the in the year of our Lord one thouſand

"Given under my hand at this day of in the year of our Lord one thouſand ."

Form of a WARRANT, in caſe of Forcible entry and Detainer.

"State of Vermont— } County ſs. } To the ſheriff of the county of or his deputy, "GREETING—

Warrant in caſe of forcible entry and detainer.

"Whereas A. B. of &c. hath exhibited unto us E. F. one of the judges, &c. and G. H. one of the juſtices of the peace, within and for the county of a complaint againſt C. D. of &c. for that the ſaid C. D. on the day of at aforeſaid, with force and arms and with a ſtrong hand, &c. (here inſert the ſubſtance of the complaint with legal certainty)—

"Therefore,

"*By the authority of the State of Vermont*, You are hereby commanded to apprehend the ſaid C. D. if to be found in your precinct, [or ſummon the ſaid C. D. if it be a caſe proper for a ſummons,] and him have to appear before us at on the day of

at of the clock in the
noon, then and there to make anſwer to, and defend againſt the complaint aforeſaid, and farther to be dealt with according to law; but if the ſaid C. D. is not to be found within your precinct, you are required to leave a true and atteſted copy of this warrant, at the uſual place of abode of the ſaid C. D. ſix days at leaſt before the ſaid day of and make return of this warrant, with your doings thereon, unto us at aforeſaid on the ſaid day of

"Dated at the day of in the year of our Lord, one thouſand

"E. F. judge of, &c.

"G. H. juſtice of the peace."

PRECEPT for the Jurors in caſe of Forcible entry and Detainer.

Precept for jury in caſe of forcible entry and detainer.

"State of Vermont— } county, ſs. } To the ſheriff of the county of or his deputy,

"GREETING.

"*By the authority of the State of Vermont*, You are hereby commanded to cauſe to come before us, on the day of at o'clock in the noon, at twelve men, to be drawn and ſummoned in the ſame manner as petit jurors to ſerve before the county and ſupreme court, to try the truth of a complaint exhibited to us E. F. one of the judges of the &c. and G. H. one of the juſtices of the peace in and for ſaid county of by A. B. of &c. againſt one C. D. of &c. for a forcible entry, [or detainer as the caſe may be] and make return of this writ, with your doing thereon, unto us at on the day of aforeſaid. Dated

at the day of in the year of our Lord one thouſand

"E. F. Judge of

"G. H. Juſtice of the Peace."

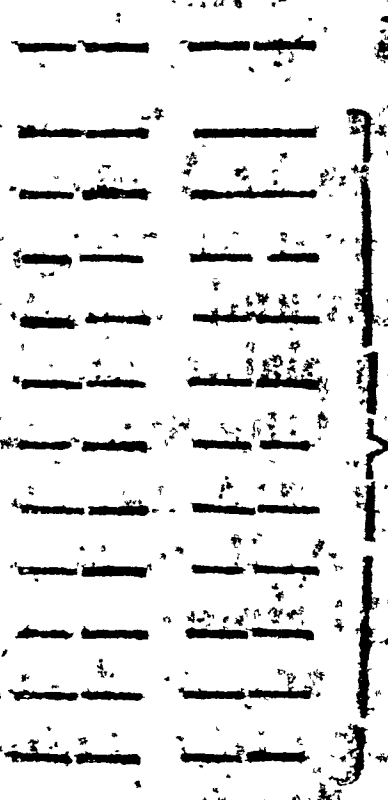
Form of the VERDICT in Forcible entry and Detainer.

Form of verdict in forcible entry and detainer.

"county, ſs. At a court of enquiry held at on the day of in the year of our Lord one thouſand before E. F. one of the judges of &c. and G. H. one of the juſtices of the peace, in and for the county of aforeſaid,

"A. B. of &c. complainant, againſt C. D. of &c. reſpondent.

"The jury find that the facts alledged in the ſaid A. B's complaint, are true, that the ſaid C. D. is guilty thereof, and that the ſaid A. B. ought to have reſtitution of the premiſes therein deſcribed, without delay. (Or in caſe the jury do not find the allegations of the complainant proved, then) the jury find, that the facts alledged in the ſaid A. B's complaint are not proved, and that the ſaid C. D. is not guilty.



Form of the WRIT of RESTITUTION in case of Forcible entry and Detainer.

Writ of restitution.

"State of Vermont— }
County, ss. }

"Whereas A. B. of &c. at a court of enquiry of forcible entry and detainer, holden at in the county of on the day of in the year of our Lord one thousand before E. F. one of the judges, &c. and G. H. one of the justices of the peace, in and for the county of by the consideration of the said court, recovered judgment against C. D. of to have restitution of (here describe the premises as in the complaint)---

"Therefore,

"*By the authority of the State of Vermont,* You are hereby commanded, that taking with you, the force of the country, if necessary, you cause the said C. D. to be immediately removed from the premises, and the said A. B. to have peaceable restitution of the same. You are also hereby commanded that of the goods, chattels or lands of the said C. D. within your precinct, you cause to be levied, and the same being disposed of according to law, to be paid and satisfied to the said A. B. the sum of dollars being the costs taxed against the said C. D. for the said A. B. at the court aforesaid, together with cents for this writ, and thereof also [here it follows the same as in common executions, and must be signed by the judge and justice.]

Form of a DECLARATION in an action on Book.

Declaration in an action on book.

"Attach or summon A. B. to answer C. D. in a plea that he the said A. B. render to the said C. D. the sum of dollars, which he

the ſaid C. D. ſays is juſtly due from the ſaid A. B. to ballance book accounts between them, as by the ſaid C. D's original book, ready to be produced in court may appear. Now the ſaid C. D. ſaith that the ſaid A. B. though often requeſted, hath ever refuſed, and ſtill doth refuſe to ſettle and adjuſt the account of the ſaid C. D. or to pay the balance thereupon due, which is to the damage of the ſaid C. D. as he ſaith dollars; to recover which with juſt coſts, he brings this ſuit. Hereof fail not, &c.

Form of a writ of REPLEVIN.

Writ of replevin.

"State of Vermont— } county, ſs. } To the ſheriff of &c. (as in other caſes.)

"*By the authority of the ſtate of Vermont,* You are hereby commanded to replevy belonging unto C. D. of &c. as he ſaith, and now deſtrained or impounded by A. B. of &c. and deliver the ſaid unto the ſaid C. D. provided he give bond, to the value of dollars, with ſufficient ſurety or ſureties, to proſecute his replevin, at the next county court to be holden at in and for the county of on the day of and ſo from court to court, until the cauſe be ended; and to pay ſuch coſts and damages as the ſaid A. B. ſhall recover againſt him. And you are alſo commanded to ſummon the ſaid A. B. if he may be found within your precinct, to appear before the county court next to be holden at in and for the county of on the in the year of our Lord one thouſand then and there to anſwer in ſaid court, to the ſaid C. D. in a plea of replevin (here inſert the declaration with legal certainty,) to the damage of the ſaid C. D. as he ſaith, the

ſum of dollars, as ſhall be then and there made to appear, with other due damages and coſt. Hereof fail not, &c. (as in other caſes.)

Form of a writ of HABEAS CORPUS.

" State of Vermont— }
county, ſs. } To the ſheriff of

" GREETING.

" *By the authority of the ſtate of Vermont,* You are hereby commanded that the body of A. B. of in the priſon, in the county of under your cuſtody (or by you impriſoned and reſtrained of his liberty, as the caſe may be) as it is ſaid, together with the day and cauſe of his commitment, (taking and detaining) by whatſoever name the ſaid A. B. ſhall be called or charged, you have before the court, next to be holden at within and for the county of or before the court now ſitting at, &c. (or before me at immediately after the receipt of this writ) to do and receive what the ſaid court ſhall then and there conſider concerning him (or her) in this behalf; and have you there this writ. Given under my hand [or our hands, as the caſe may be, when ſigned by a judge or the judges; and when ſigned by the clerk. Witneſs N. C. chief judge at this day of in the year of our Lord one thouſand]

" R. H. Clerk, or
" N. C. Chief Judge, &c."

Habeas corpus.

Form of a writ of SUBPOENA AD TESTIFICANDUM.

" State of Vermont— } " To the ſher-
county, ſs. } iff of, &c. or to A. B. an indifferent perſon, (as the caſe may be)

Subpoena.

" GREETING.

" *By the authority of the ſtate of Vermont*, You are hereby commanded to ſummon A. B. and C. of, &c. to appear before [here inſert the ſtile of the court, or name of the magiſtrate, and the time and place of ſitting] to give evidence of what they know relating to an action or plea of then and there to be heard and tried, betwixt A. B. of, &c. plaintiff, and C. D. of, &c. defendant, and this neither of them may omit, as they will anſwer their default under the pains and penalty of the law in that behalf made and provided. Hereof fail not and make due return according to law.

" Dated at, &c.

R. H. clerk, or juſtice peace."

SEC. 2. *And it is hereby further enacted*, That in all caſes in which by law a writ of *audita querela* lieth, the ſame may be ſued out in the form of a writ of ſummons or attachment, at the election of the complainant; and the form thereof may be as followeth:

Audita querela.

" State of Vermont---
County ſs. } " To the ſheriff, &c.

" GREETING.

" *By the authority of the ſtate of Vermont*, You are hereby commanded to ſummon A. B. (or to attach the goods, chattels or eſtate of A. B. as the caſe may be, purſuing the ſame form as is before preſcribed in the common writ of ſummons or attachment) then and there in ſaid court, to anſwer unto the grievous complaint of C. D. of, &c. who complaineth and ſaith (here let the declaration ſtating the facts with legal certainty be inſerted) by all which the ſaid C. D. as he ſaith, is greatly injured and aggrieved, and hath ſuffered damage the ſum of dollars, as ſhall

then and there be made to appear. And have you there this writ with your doings thereon. Allowed and signed by me, (or by us as the case may be) at this day of in the year of our Lord one thousand

"N. C. chief or assistant judge of supreme court."

Minute of recognizance to be made and signed as in case of attachment.

Form of the Writ of REPLEVIN to replevy goods and chattels attached upon *mesne* process.

"State of Vermont— } "To the sheriff
county, ss. } of, &c.:

Writ of replevin to replevy goods attached.

"GREETING:

"Whereas A. B. of hath caused the goods and chattels of C. D. of &c. viz: (one horse, &c. describing the articles as in the schedule of the officer serving the original writ) to be attached by a writ of attachment, made returnable to the court next to be holden at in and for the county of on the day of next, and by the precept of said writ, the officer serving the same was commanded to attach to the value of dollars; and whereas the said C. D. hath prayed for a writ of replevin, to replevy said goods and chattels agreeably to the statute in that case made and provided: Now if the said C. D. shall execute a bond to the said A. B. in the penal sum of dollars, (this must be to the amount of the goods commanded to be attached) with sufficient surety or sureties, conditioned according to the form prescribed by law, then you cause the said goods and chattels so attached as

aforesaid, to be replevied and delivered to the said C. D. without delay, and make return of this writ, together with the bond so executed as aforesaid, to the same court, to be holden at &c, according to law, Given under my hand, at, &c.

" C. D. clerk, or justice of the peace."

And the like form as above to be used in cases in which the replevin shall be made returnable to a justice's court, *mutatis mutandis*.

Form of a COMPLAINT by the overseers of the poor for the removal of a pauper.

" County of ss:

Complaint of the overseers of the poor.

" To A. B. and C. D. esquires, two of the justices of the peace within and for the county of come E. F. and G. H. overseers of the poor, in the town of in said county; and in their capacity aforesaid, complaint make, and give said justices to understand and be informed, that one J. K. late of, &c. (if the town and place in which the pauper resided be known) a stranger, has come to reside in the said town of and has not gained a legal settlement therein, and that the said J. K. now is, or is likely to become (as the case may be) chargeable to said town of as a pauper—Your complainants therefore pray that process may issue against the said J. K. to bring him before you to be examined in the premises, according to the statute in that case made and provided.

" Dated at this day of in the year of our Lord

" E. F. } Overseers of
" G. H. } the poor."

Form of the WARRANT to be iſſued on ſuch Complaint.

"State of Vermont— } To either of the
county, ſs. } conſtables of the
town of in the county of
and for the want of ſuch conſtable, immediately to execute this precept, to M. N. of in ſaid county, GREETING;

Warrant on ſuch complaint.

"*By the authority of the ſtate of Vermont*, You are hereby commanded to apprehend the body of J. K. mentioned in the foregoing complaint, and him bring before us A. B. and C. D. two of the juſtices of the peace, within and for the county of and not inhabitants of the town of in ſaid county, at the dwelling-houſe of in ſaid town of on the day of inſtant, (or next) at o'clock in the noon, then and there to anſwer to the above complaint, and be examined touching the allegations therein, according to law. Hereof fail not and make due return thereof with your doings on the day and year above written. Given under our hands at this day of

"A. B. }
"C. D. } Juſtices of the peace."

Form of the Juſtice's RECORD on the aforeſaid examination.

"State of Vermont— }
county, ſs. } Be it remembered that at a court of examination, holden at in ſaid county of on the day of in the year of our Lord one thouſand before A. B. and C. D. two of the juſtices of the peace, within and for the

Juſtice's record.

county aforesaid, on the complaint of C. D. and E. F. overseers of the poor in the town of in said county against J. K. late of &c. a stranger as by the complaint on file. Whereupon, after hearing the proofs and allegations and examining the same it is considered by the court, that the said J. K. has come to reside at the town of and hath not gained a legal settlement therein, and that the said J. K. is, or is likely to become (as the case may be) chargeable to said town of when in fact the said J. K. belongs and his legal settlement is in the town of and that he ought of right to be removed to said town of agreeably to law.

Therefore the said court do order and direct, that the said J. K. do remove with his family and effects, to the said town of on or before the day of next, and on neglect or refusal to comply with this order; it is hereby further ordered by the court, that the said J. K. be removed and transported with his family and effects, according to the statute in that case made and provided.

"A. B } Justices of
"C. D. } the Peace."

But if the court shall otherwise determine, then the record shall be as follows, to wit.

"Whereupon after a hearing and examination of the proofs and allegations of the parties it is considered by the court that the said overseers take nothing by their complaint, and that the said J. K. go thereof without day.

Form of WARRANT of Removal.

"State of Vermont---
county, ss. } To either of the constables of the town of in the county of and for want of such constable, im-

mediately to execute this precept, to M. N. of in ſaid county, GREETING.

"Whereas at a court of examination holden at in the county of (here inſert the record of the judgment) as appears to us of record, Therefore,

"*By the authority of the State of Vermont*, You are hereby commanded, that unleſs the ſaid J. K. do comply with the order aforeſaid, you cauſe the ſaid J. K. to be removed and tranſported with his family and effects, on the neareſt and moſt convenient rout from the town of to the town of it being the place of the ſaid J. K's legal ſettlement, and lodge with ſome overſeer of the town of aforeſaid, and leave with him a copy of this warrant, with your doings thereon, duly atteſted. Hereof fail not, and make due return to us, or one of us within days (in the diſcretion of the court.) Given under our hands at this day of in the year of

"A. B. } Juſtices of
"C. D. } the Peace."

Form of TREASURER'S WARRANT for collection of ſtate tax.

"State of Vermont.

"To A. B. firſt conſtable of the town of in the county of

"GREETING.

Treaſurer's warrant for ſtate tax.

"Whereas the legiſlature of this ſtate, at their ſeſſion begun and holden at in October in the year of our Lord one thouſand did grant a tax of cents on the dollar, on the liſt of the polls and rateable property of the inhabitants of this ſtate, to be collected and paid into the treaſury of the ſtate on or before the day of next, in money, hard money orders, or orders drawn

by the judges or clerks of the ſupreme court of judicature—

" Therefore,

" *By the authority of the ſtate of Vermont,* You are hereby commanded to levy and collect agreeably to law of the inhabitants of the town of aforeſaid, cents on the dollar, on the liſt of the polls and rateable property of ſaid inhabitants for the year one thouſand to be paid in money, hard money orders, or orders drawn by the judges or clerks of the ſupreme court of judicature, amounting in the whole to the ſum of and pay the ſame into the treaſury of the ſtate, on or before the firſt day of next. And on the neglect or refuſal of any of the ſaid inhabitants, liable by law to pay his or her proportion of ſaid tax, you are hereby commanded to diſtrain the goods, chattels or eſtate of ſuch delinquent perſon, and diſpoſe of the ſame according to law, for the ſatisfying his or her proportion of ſaid tax, and alſo your own fees; and for the want of goods, chattels or eſtate of ſuch delinquent perſon, to be by him or her ſhown unto you or found within your precinct to ſatisfy the ſame with your own fees, you are hereby commanded to take the body of ſuch delinquent perſon, and him or her commit to the keeper of the gaol in the county of or ſuch other gaol as the law directs, within ſaid priſon, who is hereby commanded to receive him or her, and him or her ſafely keep until he or ſhe ſhall pay his or her proportion of ſaid tax, together with your fees, or be releaſed according to law.

" Given under my hand at the treaſurer's

office, in the day of in
the year of our Lord one thouſand

" Treaſurer.

" Grand Liſt

Form of an EXTENT againſt a conſtable for neglect.

" State of Vermont.

" To the ſheriff of the county of

" GREETING.

Extent a. gainſt conſtable.

" Whereas a warrant has been directed from the treaſurer's office to A. B. firſt conſtable of the town of in the county aforeſaid, commanding him to collect of the inhabitants of ſaid town of a tax granted by the legiſlature of this ſtate, as their ſeſſion begun and holden at in October, in the year of our Lord one thouſand of cents on the dollar, on the liſt of the polls and rateable property of ſaid inhabitants for the year one thouſand amounting in the whole to the ſum of and to pay the ſame into the treaſury of the ſtate on or before the day of then next; and whereas the ſaid A. B. is delinquent in the payment of the aforeſaid tax, the ſum of being part of the aforeſaid ſum of Therefore,

" *By the authority of the ſtate of Vermont*, You are hereby commanded, that of the goods, chattels or eſtate of the ſaid A. B. to be by him ſhown unto you, or found within your precinct, you cauſe to be levied, and the ſame being diſpoſed of as the law directs, paid into the treaſury of this ſtate, the ſum of with the lawful intereſt thereon, from the day of A. D. being part and reſidue of the aforeſaid tax, in money, hard money orders, or orders drawn by the judges or clerks of the ſupreme court

of judicature. And alſo ſatisfy yourſelf for your own fees—And for the want of goods, chattels or eſtate of the ſaid A. B. to be by him ſhown unto you, or found within your precinct as aforeſaid to ſatisfy the aforeſaid ſums, together with your own fees, you are hereby directed to certify the ſame on the back of this extent.

"Hereof fail not, and make due return of this extent, with your doings thereon, with, in ſixty days from the receipt hereof. Given under my hand at the treaſurer's office in this day of in the year of our Lord one thouſand

"Treaſurer."

Form of an EXTENT againſt the inhabitants of a town for the delinquency of their conſtable.

Extent against the inhabitants of a town for the neglect of conſtable

"State of Vermont.

"To the ſheriff of county,

"GREETING.

"Whereas the legiſlature of this ſtate, at their ſeſſion, begun and holden at in the year of our Lord one thouſand did grant a tax of cents on the dollar, on the liſt of the polls and rateable property of the inhabitants of this ſtate, for the year one thouſand to be collected and paid into the treaſury of this ſtate, on or before the day of then next; and whereas the treaſurer iſſued his warrant in due form of law, bearing date the day of directed to A. B. firſt conſtable of the town of in the county of aforeſaid, commanding him to levy and collect of the inhabitants of ſaid town, their proportion of ſaid tax, amounting in the whole to the ſum of and to

pay the ſame into the treaſury of the ſtate, on or before the day of then next: and whereas the ſaid conſtable, being delinquent in the payment of ſaid tax the ſum of the ſaid treaſurer afterwards, on the day of iſſued his extent, directed to the ſheriff of the county of commanding him forthwith, to levy and collect the ſum in which he was ſo delinquent, and the lawful intereſt thereon, of the goods, chattels or eſtate of the ſaid conſtable, and to pay the ſame into the treaſury of the ſtate, or to certify his doings thereon, within ſixty days from the receipt of ſaid extent; and whereas the ſaid ſheriff afterwards, to wit, on the day of made a return of ſaid extent to the treaſurer's office, with his endorſement thereon of *non eſt inventus*; and whereas there ſtill remains due from ſaid town of on the aforeſaid tax, the ſum of

"Therefore,

"*By the authority of the ſtate of Vermont*, You are hereby commanded, to levy and collect the ſaid ſum of together with the lawful intereſt thereon, of the goods or chattels of the ſelectmen, or any of the principal inhabitants of the ſaid town of and the ſame being diſpoſed of as the law directs, to pay the ſame into the treaſury of the ſtate, and alſo to ſatisfy yourſelf for your own fees. Hereof fail not, and make due return of this extent, with your doings thereon, within ſixty days from the receipt hereof. Given under my hand at the treaſurer's office in this day of in the year of our Lord one thouſand

"Treaſurer."

Form of an EXTENT againſt the ſheriff.

Extent againſt ſheriff.

"State of Vermont.

"To the high bailiff of the county of

"GREETING.

"Whereas the legiſlature of this ſtate, at their ſeſſion begun and holden at in the year of our Lord one thouſand did grant a tax of cents on the dollar, on the liſt of the polls and rateable property of the inhabitants of this ſtate, for the year one thouſand to be collected and paid into the treaſury of this ſtate, on or before the day of then next; and whereas the treaſurer iſſued his warrant in due form of law, bearing date the day of A. D. directed to A. B. firſt conſtable of the town of in the county of commanding him to levy and collect of the inhabitants of ſaid town, their proportion of ſaid tax, amounting in the whole to the ſum of and to pay the ſame into the treaſury of the ſtate, on or before the day of then next: And whereas the ſaid conſtable, being delinquent in the payment of ſaid tax, the ſum of the ſaid treaſurer afterwards, on the day of iſſued his extent, directed to C. D. ſheriff of the county of commanding him forthwith to levy and collect the ſum, in which he was ſo delinquent, of the goods, chattels or eſtate of the ſaid conſtable, and to pay the ſame into the treaſury of the ſtate, or to certify his doings thereon, within ſixty days from the receipt of ſaid extent; and whereas the ſaid ſheriff made a legal *non eſt inventus* return thereon; and whereas afterwards, an *alias* extent againſt

the inhabitants of ſaid town of
was iſſued by the treaſurer purſuant to law, directed to ſheriff of the county of commanding him to levy and collect of the ſelectmen, or any of the principal inhabitants of ſaid town, the ſum in which ſaid conſtable was delinquent, on ſaid tax, being the ſum of
together with the lawful intereſt thereon, and to pay the ſame into the treaſury within ſixty days after the receipt of ſuch extent —And whereas the ſaid ſheriff, has refuſed to execute ſuch extent [or has neglected or refuſed to return ſuch extent, or has neglected or refuſed to account to the treaſurer for the ſum due thereon, as the caſe may be] and whereas there ſtill remains due on ſaid tax, the ſum of ;

" Therefore,

" *By the authority of the ſtate of Vermont,* You are hereby commanded, forthwith, to levy and collect the ſaid ſum, ſo due, being together with the legal intereſt thereon, of the goods, chattels or eſtate of the ſaid ſheriff, and the ſame being diſpoſed of according to law, to pay the ſame into the treaſury of the ſtate, and ſatisfy yourſelf for your own fees, and for want of goods, chattels or eſtate to be by him ſhown unto you, or found within your precinct, to ſatisfy the ſame, with your own fees, you are hereby commanded to take the body of the ſaid C. D. ſheriff as aforeſaid, and him commit to the keeper of the gaol in in the county of or ſuch other gaol as the law directs, within ſaid priſon, who is hereby commanded to receive the ſaid C. D. and him ſafely keep, until he ſhall pay the aforeſaid ſum, and intereſt thereon, together with your fees, or be otherwiſe releaſed, ac-

cording to law. Hereof fail not, but of this extent and your doings hereon, make due return within ſixty days from this date. Given under my hand at the treaſurer's office in this day of in the year of our Lord one thouſand

" Treaſurer."

Provided always, and it is hereby further enacted, That the term TOWN, uſed in the forms in this act, ſhall be deſcriptive of, extend to, and be underſtood to comprehend pariſhes, diſtricts, cities or other incorporated places with town privileges.

Form of a SUMMONS before a Juſtice of the Peace.

" State of Vermont— }
county, ſs. } To the ſheriff of the county of his deputy or either conſtable of the town of in ſaid county,

Summons before a juſtice.

" GREETING.

" *By the authority of the State of Vermont,* You are hereby commanded to ſummon A. B. of in the county of to appear before me, at on the day of at o'clock in the noon; then and there to anſwer to C. D. of in an action upon bond [bill, note, promiſe, book, &c. as the caſe may be] bearing date the day of for the ſum of payable on the day of (as the caſe may be.) Hereof fail not and of your doings thereon, with this writ, make due return according to law. Given under my hand at this day of in the year of our Lord one thouſand

" Juſtice Peace."

When bond is given, the ſame minute to be made, as before the county court.

Form of an ATTACHMENT or WARRANT before a justice of the peace.

" State of Vermont— } county, ss. } " To the sheriff of the county of his deputy or either constable in said county, GREETING :

Attachment before a justice.

" *By the authority of the state of Vermont,* You are hereby commanded to attach the goods, chattels or estate of A. B. to the value of and him notify thereof according to law ; and for the want thereof, take his body if to be found within your precinct, and him safely keep, and have to appear before me, [or apprehend the body of the said A. B. and him forthwith have to appear before me, as the case may be,] at on the day of at o'clock in the noon, to answer to C. D. of &c. (as in case of summons.)"

And it is hereby further enacted, That in all actions before a justice of the peace other than such as shall be brought on bond, bill, note, promise or book, the writ shall contain a description of the matter of demand or cause of action, so far as to specify the general nature of the action.

Form of a WARRANT to be issued by a justice of the peace, for the collection of town and other rates and taxes.

" State of Vermont— } county, ss. } To A. B. constable or collector of the town of in said county, (or to the collector of the school, highway or other rates or taxes, (as the case may be.) GREETING.

Warrant for the collection of town taxes, &c.

" *By the authority of the state of Vermont,* You are hereby commanded to levy and collect of the several persons, named in the list or rate bill herewith committed to you, the sum

of money annexed to the name of each perſon reſpectively; and pay the ſame to the treaſurer of the town of (or to ſuch other perſon or perſons as is or ſhall be appointed to receive the ſame, as the caſe may be) on or before the day of (as the caſe may be) and if any perſon ſhall refuſe or neglect to pay the ſum, in which he or ſhe is aſſeſſed in ſaid liſt, or rate bill, you are hereby commanded to diſtrain the goods, chattels, or eſtate of ſuch perſon ſo refuſing, and the ſame diſpoſe of according to law, for the ſatisfying the ſaid ſum, with your own fees, and for want thereof, you are hereby commanded to take his or her body, and him or her commit to the keeper of the gaol, in the county of or ſuch other gaol as the law directs, within ſaid priſon, who is hereby commanded to receive ſuch perſon, and him or her ſafely keep, until he or ſhe ſhall pay ſaid ſum ſo aſſeſſed, with legal coſts, together with your fees, or be otherwiſe diſcharged or releaſed according to law. Given under my hand, at this day of in the year of our Lord one thouſand

"I. J. juſtice peace."

Form of an ATTACHMENT againſt a perſon refuſing to appear and make his depoſition after being duly ſummoned.

Attachment againſt witneſs.

"State of Vermont---}
County ſs. } To the ſheriff of the county of his deputy or either conſtable of in ſaid county,

"GREETING.

"Whereas A. B. of in the county of has been duly ſummoned to appear before me I. J. one of the juſtices of the peace within and for ſaid county, on the day of to make his or her

depoſition, in a certain cauſe, to be heard and tried before (here inſert the court, its time and place of ſitting,) in which C. D. is plaintiff and E. F. is defendant; and whereas the ſaid A. B. having been tendered his, or her, legal fees, has refuſed and neglected to appear accordingly.

"Therefore,

"*By the authority of the ſtate of Vermont*, You are hereby commanded to apprehend the body of the ſaid A. B. and him or her, forthwith have before me, at dwelling-houſe in in the county of then and there to make his or her depoſition in ſaid cauſe, and to be further dealt with as the law directs. Hereof fail not, but of this precept, and your doings thereon, make due return. Given under my hand at this day of in the year of our Lord one thouſand

"I. J. juſtice peace."

Form of a WARRANT of commitment againſt a perſon refuſing to make his or her depoſition.

Mittimus to commit a witneſs.

"State of Vermont— } county, ſs. } To the ſheriff of the county of his deputy, or to either conſtable of the town of (or to C. D. an indifferent perſon of) in the ſaid county, GREETING.

"Whereas A. B. of in the county of was attached, and brought before me I. J. one of the juſtices of the peace, within and for the county of on the day of to make his or her depoſition, in a certain cauſe, to be heard and tried before (here inſert the court its time and place of ſitting, and the name of the parties.) And whereas the ſaid A. B. has refuſed to make his or her depoſition —

" Therefore,

" *By the authority of the ſtate of Vermont,* You are hereby commanded to apprehend the body of the ſaid A. B. and forthwith cauſe him or her to be committed to the keeper of the gaol in the county of or to ſuch other gaol as the law directs, within the ſaid priſon, who is hereby commanded to receive the ſaid A. B. and him or her ſafely keep, until he or ſhe ſhall make his or her depoſition as required, and diſcharge the coſts of commitment, or be otherwiſe releaſed by due courſe of law. Hereof fail not, but of this precept, and your doings thereon, make due return. Given under my hand at this day of in the year of our Lord one thouſand "

Form of a MITTIMUS from a juſtice of the peace, on conviction of a crime.

Mittimus for a fine.

" State of Vermont— }
county, ſs. } To the ſheriff of the county of his deputy, or either conſtable of in ſaid county—

" GREETING.

" Whereas A. B. of in the county of on the day of at in ſaid county, before me I. J. one of the juſtices of the peace within and for ſaid county, was convicted of the crime (here inſert the nature of the crime) and ſentenced to pay to the treaſury of the town of a fine of and coſts of proſecution, taxed at and to ſtand committed till ſentence be complied with, as appears of record. Therefore,

" *By the authority of the ſtate of Vermont,* You are hereby commanded, on his the ſaid A. B's neglect or refuſal to pay ſaid fine and coſt, to commit him the ſaid A. B. to the keeper of the gaol in in the county of

or to ſuch other gaol as the law directs, within the ſaid priſon, who is hereby commanded to receive the ſaid A. B. and him ſafely keep, until he pay the ſaid fine, and coſts, and coſts of commitment, together with his own fees, or till he be otherwiſe diſcharged according to law. Hereof fail not, but of this precept with your doings thereon, make due return. Given under my hand at this day of Anno Domini one thouſand

"I. J. Juſtice Peace."

Paſſed October 31, 1797.

CHAPTER LVII.

An ACT *eſtabliſhing forms of* oaths.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, that the forms of oaths in this act preſcribed, be, and are hereby eſtabliſhed to be uſed and adminiſtered unto the officers and perſons herein after mentioned, *namely*,

Grand Jurors' oath.

"You, as grand jurors for the body of this county, do ſolemnly ſwear, that you will diligently enquire, and true preſentment make, of all ſuch matters and things as ſhall come to your knowledge, according to your charge. The counſel of the ſtate, your own counſel, and that of your fellows, you ſhall keep ſecret, you will preſent no perſon for envy, hatred or malice, neither will you leave any perſon unpreſented for love, fear, favor, affection or hope of reward, but you will preſent things truly, as they come to your knowledge, accor-

Grand jurors' oath.

ding to the beſt of your underſtanding, and according to the laws of this ſtate.

"So help you God."

Petit Jurors' oath in criminal cauſes.

Petit jury's oath in criminal caſes.

"You ſolemnly ſwear, that without reſpect of perſons or favor of any man, you will well and truly try, and true deliverance make, between the ſtate of Vermont and the priſoner at the bar, whom you ſhall have in charge, according to the evidence given you in court and the laws of this ſtate.

"So help you God."

Petit Jurors' oath in civil cauſes.

Petit jurors' oath in civil cauſes.

"You ſolemnly ſwear, that you will well and truly try the iſſue or iſſues now to be given you in charge, between the plaintiff and defendant, or plaintiffs and defendants, (as the caſe may be) agreeably to the evidence given you in court, and the laws of this ſtate, and accordingly a true verdict give. Your own counſel and that of your fellows you will duly obſerve and keep; you will ſay nothing to any perſon of the buſineſs and matters you have in charge, but to your fellow jurors, nor will you ſuffer any one to ſpeak to you about the ſame, but in court, and when you are agreed on a verdict, you will keep it ſecret until you deliver it in court.

"So help you God."

Jurors' oath at a juſtice's court in civil cauſes.

Jurors' oath before juſtice.

"You ſolemnly ſwear, that you will well and truly try the matters of difference, between the plaintiff and defendant, or plaintiffs and defendants (as the caſe may be) and a true verdict give according to the evidence given you in court and the laws of this ſtate.

"So help you God."

Jurors' oath at a free-hold court.

"You ſolemnly ſwear, that you will well and truly enquire of the forcible entry or detainer (as the caſe may be) exhibited in the complaint of A. B. againſt C. D. according to the evidence given you in court; and return a true verdict thereof.

"So help you God."

Jurors' oath before a freehold court.

Officer's oath who attends upon a jury.

"You ſolemnly ſwear, that you will conduct the perſons ſworn of this jury, to ſome ſuitable and convenient room, that you will there keep them together, and ſuffer no perſon to ſpeak unto them or any of them, upon the buſineſs and matters ſubmitted to their charge, until they are agreed, nor will you ſpeak to them yourſelf about the ſame, unleſs by order of court, or to aſk them whether they are agreed.

"So help you God."

Oath of the officer who has charge of a jury.

Oath to be adminiſtered to witneſſes.

"You ſolemnly ſwear, that the evidence you ſhall give to this court, (or to the jury, referees, auditors, commiſſioners, committee, arbitrators or other board or body of men, as the caſe may be) relative to the cauſe now under conſideration, ſhall be the truth, the whole truth, and nothing but the truth.

"So help you God."

Witneſſes oath.

Oath to be adminiſtered to interpreters.

"You ſolemnly ſwear, that you will juſtly, truly and impartially interpret the oath about to be adminiſtered to A. B. a perſon who is unacquainted with, and cannot expreſs himſelf intelligibly, in the Engliſh language, who is called upon the ſtand as a witneſs in a cauſe

Interpreter's oath.

(here mention the parties,) and that you will juſtly, truly and impartially interpret the teſtimony of the ſaid A. B. and declare the ſame to this court (or to the jury, or other board as the caſe may require) according to your beſt ſkill and underſtanding.

"So help you God."

Oath to be adminiſtered to attornies.

Attornies' oath.

"You ſolemnly ſwear, that you will do no falſehood, nor conſent that any be done in court, and if you know of any that you will give knowledge thereof to the judges of the court, or ſome of them, that it may be reformed. You ſhall not wittingly, willingly or knowingly, promote, ſue or procure to be ſued, any falſe or unlawful ſuit, or give aid or conſent to the ſame, you ſhall delay no man for lucre or malice, but ſhall act in the office of an attorney within the court, according to your beſt learning and diſcretion, and with all good fidelity as well to the court as to your client.

"So help you God."

Oath to be adminiſtered to parties before auditors.

Oath to parties before auditors.

"You ſolemnly ſwear, that you will juſt, true and direct anſwer or anſwers make to ſuch queſtion or queſtions as ſhall be aſked you by the auditors or either of them; as alſo to ſuch queſtion or queſtions as ſhall be propoſed to you, under the direction of the auditors, touching the account or accounts, and the particular items thereof, to be exhibited before them.

"So help you God."

Oath to be adminiſtered to appraiſers of real eſtate on execution.

"You A. B. C. D. &c. being appointed to appraiſe ſuch eſtate as is now to be preſent-

ed to you, do ſolemnly ſwear, that without partiality or ſiniſter views, you will faithfully appraiſe ſaid eſtate, according to the preſent true and juſt value thereof in money, according to your beſt judgment and diſcretion. Oath to apraiſers of real eſtate.

"So help you God."

Oath to be adminiſtered to perſons appointed to appraiſe deceaſed perſons' eſtates, as well real as perſonal.

"You A. B. C. D. &c. being appointed to appraiſe all ſuch eſtate, as well real as perſonal, belonging to the eſtate of E. F. late of deceaſed, as ſhall be preſented to you, do ſolemnly ſwear, that without partiality or ſiniſter views, you will faithfully appraiſe ſaid eſtate, according to the preſent true and juſt value thereof in money, according to your beſt judgment and diſcretion. Oath to appraiſers of deceaſed perſons' eſtate.

"So help you God."

Oath to be adminiſtered to perſons appointed by courts of probate to make diviſion of eſtates.

"You A. B. C. D. &c. being appointed to make diviſion of the eſtate of E. F. late of deceaſed, do ſolemnly ſwear, that without partiality or ſiniſter views, you will faithfully and equally divide ſaid eſtate, agreeably to the order of court now given you, according to your beſt judgment and diſcretion. Oath to perſons making diviſion of eſtates.

"So help you God."

Oath to be adminiſtered to chainmen.

"You A. B. C. D. &c. being appointed to aſſiſt E. F. ſurveyor general, (or county ſurveyor as the caſe may require) in carrying the chain, do ſolemnly ſwear, that you will faithfully aſſiſt the ſaid ſurveyor in his ſervice, that Oath to chainmen.

you will keep a juſt and accurate account of all the lines or meaſures by you run or taken, according to your beſt judgment and diſcretion, and that you will render the ſame to the ſaid ſurveyor on requeſt.

"So help you God."

Oath to be adminiſtered to committees appointed to lay out or alter roads or highways.

Oath to committees to lay out high ways.

"You A. B. C. D. &c. being appointed to view the premiſes, deſcribed in the petition, by virtue of an order of court whereon you now act, (or as the caſe may be) and if you find it neceſſary for the better accommodation of the public, as well as individuals, to lay out a new road (or alter one already laid out, as the caſe may be) do ſolemnly ſwear, that if you find it neceſſary, that you will lay out (or alter) ſuch road, with the moſt convenience to the public, and leaſt prejudice to individuals; that you will proceed to ſurvey the ſame agreeably to law, and ſet over the allowance land, and juſtly aſſeſs the damage done to the property of any particular landowner or owners, according to your beſt judgment and diſcretion, and make report of all and ſingular your doings in the premiſes as the law preſcribes.

"So help you God."

Oath to be adminiſtered to a jury of inquiſition into damages, as alſo to perſons appointed by court for that purpoſe.

Oath to jury of inquiſition.

"You ſolemnly ſwear, that you will juſtly and truly enquire into the damages which the plaintiff or plaintiffs hath or have ſuſtained of the defendant or defendants, according to the evidence which ſhall be given you;

and return your inquiſition thereon into court.

"So help you God."

Oath to be adminiſtered to auditors of accounts.

"You ſolemnly ſwear, that you will juſtly, truly and impartially hear, examine and adjuſt the account or accounts of A. B. plaintiff, and C. D. defendant. Oath to auditors.

"So help you God."

Oath to be adminiſtered to perſons appointed to appraiſe the improvements of eſtates which have been ſet off on execution and redeemed.

"You ſolemnly ſwear, that in appraiſing the value of the rents, profits and improvements of the premiſes, now ſubmitted to your conſideration, that you will faithfully and impartially judge between the parties. Oath to perſons appraiſing improvements.

"So help you God."

Form of an oath to be adminiſtered to a ſingle woman, charging a man with being the father of a baſtard-child, either before or after delivery.

"You ſolemnly ſwear, that you will juſt, true, and direct anſwer or anſwers make to ſuch queſtion or queſtions as ſhall be aſked you relative to the baſtard-child, of which you are now pregnant, (if before delivery, but if after delivery) relative to the baſtard begotten of your body, of which you have been lately delivered. Oath to the mother of a baſtard.

"So help you God"

Paſſed October 31, 1797.

CHAPTER LVIII.

An ACT *directing the mode of the election of the* governor, lieutenant governor, treasurer *of the state,* councillors *and* representatives.

SECTION 1. IT *is hereby enacted by the General assembly of the State of Vermont,* That every organized town, within this state, shall be provided at the expence of such town, with five boxes, for the purpose of receiving the votes, for governor, lieutenant governor, treasurer of the state, councillors and a representative to represent such town in the general assembly, which shall be properly designated for the purposes aforesaid, and be kept by the town clerk of such town; in the lid or cover of which boxes shall be made a small hole, sufficient only to receive such votes. And every person qualified by the constitution, and by this act, to vote for governor, lieutenant governor, treasurer of the state, councillors, and representative, shall produce his vote, with the name of the person voted for, fairly written thereon, and folded up, and closed in such manner as to conceal the name of such person, and the vote so folded and closed, shall be put into the box designated for the officer to be elected in the presence of the presiding officer of the meeting, in such manner as shall be satisfactory to such presiding officer of the meeting, that the person voting, puts in but one vote for the officer to be elected.

Towns to be provided with five boxes for the reception of votes for governor, &c.

SEC. 2. *And it is hereby further enacted,* That the first constables of the several organized towns in this state, or in their absence, the town clerks of the respective towns, or in the absence of both, either of the selectmen of

First constables, town clerks or selectmen

to notify freemen's meetings.

such towns, without further order, shall set up a notification, at such place or places as shall have been appointed by the inhabitants of their several towns for notifying town-meetings, at least twelve days before the first Tuesday of September, *annually*, warning the freemen of the respective towns to meet on the said first Tuesday of September, at one of the clock in the afternoon of said day, at the usual place of holding town meetings in such towns, for the purpose of electing a governor, lieutenant-governor, treasurer of the state, twelve councillors, and a representative to represent the town in the general assembly for the year ensuing; at the opening of which meeting this act shall be publicly read.

Twelve days' notice to be given.

To meet on the first Tuesday of September.

First constable to preside in the meeting.

SEC. 3. *And it is hereby further enacted*, That the first constable, or in his absence, the town clerk of the town; or in their absence, one of the selectmen or a justice of the peace of the same town, shall be the presiding officer of such meeting, whose duty it shall be, to call on the freemen of such town, from time to time, for the space of four hours, to give in their votes for governor, lieutenant-governor, treasurer of the state, and twelve councillors, and two hours for a representative to represent such town in the general assembly; and shall have the several boxes ready to receive such votes. And at the expiration of two hours the votes for a representative shall be sorted and counted: and if no person shall have a majority of all the votes, the presiding officer of the meeting shall notify the same; and call on the freemen as aforesaid, giving a reasonable time only for receiving such votes, till an election shall be made. And after an election shall be made as aforesaid, the presiding officer of the meeting shall

Poll to be kept open four hours for governor &c.

and two hours for a representative.

give to the perſon elected a certificate of the following tenor, viz.

"State of Vermont.

Certificate to perſon elected.

"At a freemen's meeting legally warned and holden at on the firſt Tueſday of September one thouſand A. B. was elected a repreſentative by a majority of the freemen preſent, to repreſent the town of in the general aſſembly of the ſtate of Vermont for the year enſuing. Given under my hand at this day of September, A. D.

"C. D. firſt conſtable.

Which certificate ſhall be a ſufficient credential of ſuch perſon's election.

Provided always, That if the perſon ſo elected ſhall not have reſided two years within this ſtate, and one whole year, next before his election in the town for which he ſhall be ſo elected, the conſtable or preſiding officer ſhall certify the ſame, in the certificate to be given to him as aforeſaid. And after four hours, the ſeveral votes for governor, ſhall be ſorted and counted by the preſiding officer, with the aſſiſtance of the town clerk for the time being; and a liſt of the perſons voted for, and the number of votes for each perſon, ſhall be made, and atteſted by the preſiding officer and town clerk, and recorded in the town-clerk's office. Which ſaid liſt, ſo atteſted, together with the votes, ſhall be then and there ſealed up; and on the outſide of the paper ſo ſealed up, ſhall be written the name of the town, and theſe words, "VOTES FOR GOVERNOR"—and the ſame ſhall be delivered to the repreſentative of ſuch town, whoſe duty it ſhall be, to tranſmit the votes ſo ſealed up, to the committee who ſhall be appointed by the council and general aſſembly, to receive, ſort and count the ſame. And the preſiding

Votes to be delivered to repreſentative, and by him tranſmitted to the general aſſembly.

officer and town clerk, after four hours as aforesaid, shall proceed in the same manner, with the votes for lieutenant-governor and treasurer of the state, written on the outside of the paper containing them, the name of the town, and the words, VOTES FOR LIEUTENANT-GOVERNOR, OR TREASURER, as the case may be. And the votes for councillors, shall in like manner, be sorted and counted, and a list of the same be made, on one sheet or piece of paper, with the names of the persons voted for, and the number of votes for each person, which shall be sealed up, in like manner, and on the outside shall be written, the name of the town, and these words, VOTES FOR COUNCILLORS; and the same shall be in like manner, delivered to the representative, to be by him transmitted to the committee as aforesaid. And the votes which shall be otherwise taken, sealed up or presented, shall not be sorted and counted by the committee appointed for that purpose.

Provided always, and it is hereby further enacted, That if the representative of any town shall die, be absent or otherwise incapacitated or prevented from transmitting the votes and certificates as aforesaid, the same shall, by the presiding officer, be delivered to any representative of the county in which such town is situate, whose duty it is hereby made, safely to transmit the same to the committee to be appointed by the council and general assembly aforesaid. And also that the freemen of any organized town, who do not elect a representative may, in like manner deliver their votes to any representative of the county in which such town is situate, to be transmitted to the committee aforesaid, which votes shall be received, sorted and coun.

Votes for governor, &c. from towns not represented, how transmitted.

ted in the ſame manner as is provided for towns which elect repreſentatives.

Penalty on conſtables for neglect.

SEC. 4. *And it is hereby further enacted*, That if any conſtable or other officer, whoſe duty it ſhall be to notify and preſide, agreeably to this act, ſhall neglect or refuſe to notify or attend, ſuch meeting as aforeſaid, annually, he ſhall forfeit and pay to the treaſury of the town in which the offence ſhall be committed, a ſum not exceeding two hundred dollars, for every ſuch neglect, to be recovered by action of debt, in the name of the treaſurer of ſuch town before any court proper to try the ſame.

Freeman's qualifications.

SEC. 5. *And it is hereby further enacted*, That every man of the full age of twenty-one years, having reſided in this ſtate for the ſpace of one whole year, next before the election of repreſentatives, and is of a quiet and a peaceable behaviour, and will take the following oath or affirmation, ſhall be entited to all the privileges of a freeman of this ſtate.

Their oath.

"You ſolemnly ſwear, (or affirm, as the caſe may be) that when you give your vote or ſuffrage, touching any matter which concerns the ſtate of Vermont, you will do it ſo as in your conſcience, you ſhall judge will moſt conduce to the beſt good of the ſame as eſtabliſhed by conſtitution, without fear or favor of any man."

Provided always, That no perſon ſhall be admitted to take the above oath until he ſhall have obtained the approbation of the ſelectmen of the town, ſignifying that he has the qualifications of a freeman, agreeably to the conſtitution of this ſtate; which oath any juſtice of the peace, or the town clerk is hereby empowered to adminiſter. And the names of the perſons thus admitted, ſhall be

enrolled in the town clerk's office of the town in which they are admitted as aforesaid

SEC. 6. *And it is hereby further enacted*, That if any freeman of this state shall be guilty of bribery or corruption, or any other evil practice which shall render him notoriously scandalous, it shall be in the power of the supreme court, on complaint thereof made to disfranchise such freeman, who shall thereupon, stand disfranchised, until by his good behavior the said supreme court shall see cause to restore him to his freedom again, which the said court is hereby empowered to do.

Freemen may be disfranchised.

SEC. 7. *And it is hereby further enacted*, That if any person who is not a freeman and an inhabitant of this state, admitted and sworn according to law shall presume to vote in the election of any representative of the general assembly, or for governor, lieutenant-governor, treasurer of the state or councillors; or if any freeman shall put in more than one vote for one person, in the same election, to one office, he or they so offending, shall pay a fine of fifty dollars, to the treasurer of the town in which such offence shall be committed.

Penalty for persons voting who are not freemen.

SEC. 8. *And it is hereby further enacted*, That if any constable or other person acting in his room as provided in this act, shall knowingly receive and count any vote or votes, from any person not a freeman and inhabitant of this state, in the election of any of the officers aforesaid, or knowingly receive from any freeman of the state, and count, more than one vote for one person, in the same election to one office, he shall forfeit and pay a fine to the treasury of the state, not exceeding three hundred dollars, to be recov-

Penalty for constable for receiving illegal votes.

ered by action or information on this ſtatute.

Perſons exempt from arreſt.

SEC. 9. *And it is hereby further enacted*, That the governor, lieutenant-governor, treaſurer, any member of council and houſe of repreſentatives, and all officers whoſe duty it is or ſhall be to attend the legiſlature, be and forever ſhall, in all caſes, except for treaſon, felony and breach of the peace be privileged from arreſt and impriſonment during their attendance at the ſeſſion of the legiſlature, and in going to and returning from the ſame.

Paſſed November 2, 1797.

CHAPTER LIX.

AN ACT *dividing the ſtate into* diſtricts, *for* electing repreſentatives *to the* Congreſs *of the* United States, *and directing the* mode *of their* election.

Weſtern diſtrict.

SECTION 1. IT *is hereby enacted by the General aſſembly of the State of Vermont*, That the counties of Bennington, Rutland, Addiſon, and that tract of country heretofore included in the counties of Chittenden and Franklin, be, and they hereby are formed into one diſtrict, for the purpoſe of electing one repreſentative, to repreſent this ſtate in the Congreſs of the United States.

Eaſtern diſtrict.

And that the counties of Windham, Windſor, and the tract of country heretofore included in the counties of Orange, and Caledonia, be, and they are hereby, in like manner formed into one other diſtrict, for the purpoſe aforeſaid.

SEC. 2. *And it is hereby further enacted*, That the firſt conſtables, and in their abſence the town clerks of the reſpective towns in this

state, and in the absence of both, the select-men of such towns, without further order, shall set up a notification, at such place or places as shall have been appointed by the inhabitants of their several towns, for notifying town-meetings, at least twelve days before the first Tuesday of September, that is to say, twelve days before the first Tuesday of September, which will be in the year of our Lord one thousand seven hundred and ninety-eight, and twelve days before the first Tuesday of September, which will be in the year of our Lord one thousand eight hundred, and thus once in two years forever thereafter, warning the freemen to meet on the said first Tuesday of September, at eleven o'clock before noon, at the usual places of holding freemen's meetings in said towns, for the purpose of electing a person to represent this state in the Congress of the United States. At the opening of which meeting this act shall be publicly read.

Constables, &c. without further order to set up notification.

Freemen to meet on the first Tuesday of September, at 11 o'clock in the forenoon.

Act to be read.

SEC. 3. *And it is hereby further enacted*, That the first constable, and in his absence the town clerk, one of the selectmen, or a justice of the peace, shall then call on the freemen of such town from time to time, for the space of two hours, to give in their ballots for a person to represent this state in the Congress of the United States. Which ballots shall be given in the manner following, that is to say, Each person voting shall deliver his ballot, folded together, to the presiding officer, in presence of the meeting; which ballot shall be a paper ticket, containing the name of the person he would elect. And the presiding officer on receiving the ballot shall direct the town clerk whose duty it is hereby declared to be, to write the name of the elector, in a roll to be by him provided for that purpose,

Constables to call on the freemen for two hours to give in their ballots.

Mode of balloting.

Electors' names to be enrolled.

and preſerved on file in his office. And the ſaid preſiding officer ſhall, without inſpecting the name of the perſon voted for, examine the ballot, ſo far as to determine whether the ſame contains more than one ticket; and if it does not, he ſhall place it in the balloting box.—But if ſaid ballot contains more than one ticket, he ſhall make it manifeſt to the meeting, and reject the ſame.; and no vote ſhall be afterward received from ſuch elector in ſaid meeting. And after the ballots have been received in manner aforeſaid, and at the expiration of the time aforeſaid, the ballots may be forted and counted by the preſiding officer, with the aſſiſtance of the town clerks, magiſtrates, and ſelectmen. And a certificate of the number of the votes for each candidate, (of which a record ſhall be made in the town clerk's office) ſigned by the preſiding officer, ſhall be by the ſaid preſiding officer, ſealed and ſuperſcribed with the name of the town, and theſe words, "*Votes for a repreſentative to Congreſs.*" And the ſaid certificate, ſo ſealed and ſuperſcribed, the ſaid preſiding officer ſhall deliver to the repreſentative choſen to attend the general aſſembly for that town, or a repreſentative from ſome adjacent town, at their next ſeſſion. And the ſaid repreſentative ſhall deliver the ſame to a committee, to be elected by the general aſſembly for each reſpective diſtrict——which committee, on the Monday next after the ſecond Thurſday in October, ſhall ſort and count the ſaid votes, and declare the perſon having a majority thereof, in their reſpective diſtricts, to be elected to repreſent the people of this ſtate in the Congreſs of the United States, and give notice thereof to the chief magiſtrate.

Ballots to be forted and counted, and a certificate of the number to be recorded and ſealed up.

The ballots to be delivered to repreſentative.

Committee to receive and count them.

SEC. 4. *And it is hereby further enacted*, That if no perſon ſhall have a majority of votes in a diſtrict, given in by the freemen,

on the first Tuesday of September as aforesaid, the committee for such district shall give notice thereof to the chief magistrate of this state, with a statement of the number of votes for each candidate.

If no choice, the committee to give notice to the governor.

And it shall be the duty of the treasurer of this state, to furnish the chief magistrate with a list of all the towns in each district, where no choice shall have taken place as aforesaid, in which there shall be a town clerk, constable, and selectmen, in sufficient season for the issuing of warrants, as herein after provided. And it shall be the duty of the chief magistrate to issue his warrant, to the first constables of the several towns, in the district or districts in which such failure of choice shall happen, notifying them of the number of votes for each candidate in the former meeting, and directing them, or in their absence, the town clerks, and in the absence of both, the selectmen, to warn the freemen in their several towns, in the manner aforesaid, to meet at the usual places, in the several towns, for holding freemen's meetings, on the first Tuesday of December then next, at one of the clock afternoon, to elect a person to represent this state in the Congress of the United States. And the said meeting shall be governed and conducted as in this act before directed. Which said warrants, the chief magistrate shall cause to be delivered to the respective sheriffs of such district or districts, whose duty it is hereby declared to be to deliver the said warrants to the said first constables, or in their absence, to the town clerk, or one of the selectmen of the respective towns.

The governor to issue warrants for a new election.

Freemen to meet on the first Tuesday of December.

Warrants to be distributed by the sheriffs.

SEC. 5. *And it is hereby further enacted*, That a certificate of the number of votes for each candidate, signed as in this act before di-

rected, (a record of which shall be made in the town clerk's office) shall be sealed, as before in this act directed; and shall by the presiding officer of said meeting, be delivered to the county clerks of the respective counties, within ten days after the holding of said meetings; whose duty it shall be, to meet at Middlebury and Windsor, in their respective districts, on the second Tuesday of January then next following, with the said votes; and then publicly, to proceed to sort and count the same, and to declare the person, having a majority of all the votes, to be elected to represent the state in the Congress of the United States. Of which election they shall notify the chief magistrate within ten days from such meeting.

Certificate, &c. to be sealed and delivered to the county clerks.

Clerks to meet at Middlebury and Windsor.

SEC. 6. *And it is hereby further enacted*, That in case the county clerks at such meeting, shall find that no person has a majority of votes, as aforesaid, that then, the said clerks shall return to the chief magistrate, in ten days after such meeting, the names of all the candidates, with a statement of the votes for each of them. And it shall be the duty of the chief magistrate to issue his warrants, as before directed in this act, requiring the freemen to meet, as before in this act directed, within six weeks after the report of such clerks. And the presiding officers of such meetings, shall return the votes so taken, certified and recorded as herein before directed, to the respective clerks, within ten days from such meeting. And such clerks shall meet at the places herein before appointed on the twentieth day next after such meetings; unless the same shall be on Sunday, in which case they shall meet on the Monday next following, and proceed, publicly, to sort and count the votes; and to declare the person having a majority

If clerk find no choice to make returns to the governor.

The governor to issue his warrants the second time.

Votes to be delivered to clerks, &c.

of votes, elected to represent the people of this state in the Congress of the United States, and notify the chief magistrate thereof, as last aforesaid. And, in case there shall be no such choice, it shall then be the duty of such clerks to report to the chief magistrate, as before in this act directed. And it shall be the duty of the chief magistrate to issue his warrants, and of the constables, clerks, and other persons herein before mentioned, to continue in the discharge of their several duties, from time to time, as is last before in this act directed, until some one person shall have a majority of all the votes, as aforesaid.

If no choice, the same mode of proceedure until a person is elected.

SEC. 7. *And it is hereby further enacted*, That in case of absence, or disability, of either of the county clerks, or where there shall have been no clerk appointed, in either of the counties in this state, it shall be the duty of the presiding officers of the respective freemen's meetings in such county, to deliver the votes, sealed as aforesaid, to the sheriff of such county—who is hereby fully authorised and required to do the duty by this act enjoined on the clerk of said county.

Sheriffs to do the duty of clerks if they are absent &c.

SEC. 8. *And it is hereby further enacted*, That the presiding officers of such freemen's meetings, clerks of counties or sheriffs, shall be allowed five cents per mile travel, each way; and the clerks or sheriffs, two dollars per day, for each day's attendance while sorting and counting said votes. And the judges of the supreme court are hereby authorised and directed to settle such accounts, and draw orders on the treasurer of this state for payment, and the treasurer is hereby required to pay the same.

Fees allowed to the presiding officers, clerks and sheriffs.

Penalty for neglect of duty.

SEC. 9. *And it is hereby further enacted*, That any perſon neglecting to do the duties enjoined on him by this act, ſhall forfeit and pay into the treaſury of this ſtate, the ſum of twenty dollars, for every ſuch offence.—And it ſhall be the duty of all informing officers, to make due preſentment of every breach of this act.

Credentials to be executed by the governor.

SEC. 10. *And it is hereby further enacted*, That it ſhall be the duty of the chief magiſtrate of this ſtate, to cauſe to be executed under his hand and the ſeal of this ſtate, proper credentials to the perſons declared to be elected agreeably to this act.

No vote to be received after ſunſet.

SEC. 11. *And it is hereby further enacted*, That no vote ſhall be received for a perſon to repreſent this ſtate in the Congreſs of the United States, in any meeting for that purpoſe, after the ſetting of the ſun.

Penalty for corruption, &c.

SEC. 12. *And it is hereby further enacted*, That if any perſon ſhall be guilty of uſing any indirect, ſiniſter, or corrupt means, in the execution of any of the truſts, by this act repoſed in him; or with intent to corruptly influence any elector or electors, in giving their ballots at any ſuch election; or, to corruptly influence any officer or officers, in the diſcharge of any of the duties in this act pointed out; or, who ſhall give in, or attempt to give in more than one vote, or ſhall, unaſked, offer votes to any other elector, or give his own vote in any other town than that wherein he reſides, at any ſuch election—each perſon ſo offending, and being thereof convicted, ſhall forfeit and pay the ſum of fifty dollars; to be recovered by action of debt, before any court proper to try the ſame, one half, with coſts, to the proſecutor, and the other half to the treaſury of this ſtate. And, if any perſon ſhall, by bribery, menace, or other cor-

rupt mean, or device, either directly or indirectly, attempt to influence or to procure any perſon to attempt to influence as aforeſaid, any perſon to give his vote for him; or to deter him from giving his vote for any other perſon, at any election for the choice of a perſon to repreſent this ſtate in the Congreſs of the United States, and be thereof convicted, he ſhall forfeit and pay, the ſum of two hundred dollars, to be recovered and applied as aforeſaid; and be diſabled from holding any office in the gift of this ſtate.

Penalty for perſons uſing undue influence to obtain votes, &c.

SEC. 13. *And it is hereby further enacted*, That to ſupply the preſent vacancy of election, in the weſtern diſtrict, the ſame mode of proceeding ſhall be had, as in this act is before provided, where the freemen ſhall make no choice, at their meeting on the firſt Tueſday of September. And, until the preſent vacancy is ſupplied, the freemen of Craftſbury ſhall vote with the county of Franklin; and thereafter with the county of Caledonia.

Mode of proceeding to ſupply the preſent vacancy.

SEC. 14. *And it is hereby further enacted*, That the act entitled, "An act dividing the ſtate into diſtricts, for electing repreſentatives to the Congreſs of the United States, and directing the mode of their election," paſſed October the twenty-eighth, A. D. one thouſand ſeven hundred and ninety-four, be, and the ſame hereby is repealed.

Act repealed.

Paſſed October 26, 1796.

CHAPTER LX.

An ACT *regulating the diſpoſition of monies raiſed by tax on lands, in the ſeveral towns, for the purpoſe of making and repairing roads and building bridges.*

SECTION 1. IT *is hereby enacted by the General Assembly of the State of Vermont*, That all lands within this ſtate, which are or ſhall be liable to the payment of taxes for making and repairing roads and building bridges, ſhall not be expoſed to ſale for the payment of ſuch tax, until a fair and correct account of the labor which ſhall have been done on ſuch road, under the direction of the committee authoriſed by the act levying ſuch tax to ſuperintend the expenditure of the ſame, ſhall have been made out by the ſaid committee, and preſented to the judges of the county court, of the county in which the lands are ſituate, and approved by them, at one of their ſtated ſeſſions.

No lands to be ſold until the account of the work is allowed by the county court.

And the clerk of ſuch county court ſhall record ſuch accounts, and an atteſted copy of the ſame ſhall be good evidence in any court of law in this ſtate.

County clerk to record the account.

SEC. 2. *And it is hereby further enacted*, That no article of account ſhall be allowed by the ſaid judges, unleſs they ſhall be ſatisfied, by the oath of one or more of the committee aforeſaid, that the labor was faithfully done and performed on ſuch road or roads, agreeably to the accounts which they exhibit.

No account to be allowed unleſs ſworn to by the committee.

And that no account be allowed for any labor done on ſuch roads, except the ſame be done between the firſt day of May and the fifteenth day of November.

And the work done between the firſt of May and the fifteenth of November.

SEC. 3. *And it is hereby further enacted*, That ſuch committee, appointed to ſuperintend ſuch tax and to lay out and determine the road or roads on which the ſame ſhall be expended, ſhall not conſiſt of more than three perſons.

Committee to conſiſt of not more than three perſons.

And ſuch committee ſhall lay out the roads on which ſaid tax is to be expended, in the month of May next, after ſuch tax ſhall

Committee to lay out the

be granted, and the landowners of such town shall have liberty by applying to said committee, to work out their respective taxes, in the months of June and July following.

roads in May.

Land-owners to work out the tax in June and July.

And it shall be the duty of such committee to notify the land owners of such town, by advertising the same three weeks successively, in the Windsor, Bennington and Rutland news-papers, either in the month of March or April preceding the time such work is to be done.

Committee to notify.

SEC. 4. *And it is hereby further enacted*, That the price of labor shall be seventy-five cents per day, the person boarding himself, excepting in the months of November and December, in which months it shall be fifty-eight cents per day.

Laborers allowed seventy-five cents per day.

SEC. 5. *And it is hereby further enacted*, That if any proprietor or land owner shall refuse or neglect to perform the labor required by such act, within the term of time advertised by the committee of superintendance as aforesaid, and also to pay his or her proportion of such tax in money, it shall be the duty of the collector, appointed by the act levying the tax, to advertise such delinquencies in the papers printed at Windsor, Rutland and Bennington, three weeks successively, the last time of which shall be at least thirty days before the day appointed for the sale of delinquents' lands.

Land-owners refusing to pay, their lands to be advertised.

Advertisements how published.

And in case any part of such tax shall remain unpaid at the time appointed for such sale, such collector shall proceed to sell at public vendue, so much of such delinquents' land as will pay such tax with costs, including as well the costs of advertising as those of the vendue.

Collectors' power to sell lands.

Collectors to execute warranty deeds

And such collector shall, at the expiration of one year after the day of such sale, unless such lands should be redeemed, as is herein after provided, make and execute a deed or deeds, to the purchaser or purchasers, containing a covenant of warranty, which deed or deeds shall be good and valid in law.

Proviso,

Provided always, That if the proprietor or proprietors of lands thus sold, or any other person shall appear and tender to such collector, or in case of his absence, shall leave at his last and usual place of abode, within one year from the day of such sale, that is to say at any time previous to twelve of the clock at night, of the day of the month next preceding the day of the month of the sale, in the year next succeeding to the year of the sale, the full sum of money for which such land was sold, with the costs arising thereon, and twelve per cent. interest, such collector shall receive the money, and not execute a deed to the purchaser, but return to him his money and interest as aforesaid, but no suit shall be maintained against such collector for such money until an actual demand has been made for the same.

Mode of redemption.

And the advertisement herein before directed to be published, by such collector, shall, as nearly as circumstances will permit, be in the words following.

Form of advertisements.

"WHEREAS the legislature of the state of Vermont, at their session at in the year assessed a tax of per acre, on all the lands (public rights excepted) in the town of in the county of in said state, for the purpose of making and repairing roads and building bridges.

These are to warn the proprietors and landowners of said town of who have not paid their proportion of said tax, in labor or

otherwiſe, to the committee appointed to ſuperintend the expenditure of the ſame, or to the ſubſcriber, that ſo much of their lands will be ſold at public vendue, at the dwelling houſe of , in the town of , in the county of , at o'clock noon as will be requiſite to diſcharge their reſpective taxes, with coſts; dated at this day of A. D.

" Collector."

Which ſale ſhall be advertiſed to be, and be holden in the town in which the lands are ſituate, if the ſame be incorporated and organized as a town, but if not it may be holden in any other town within the county. And the blanks in the form of the advertiſement herein before directed ſhall be filled with the place of the ſeſſion of the legiſlature, where the tax was aſſeſſed—the year in which it was aſſeſſed—the quantity of the tax per acre—the name of the town taxed, and county, and the day, place and hour of the ſale—which collector ſhall be entitled to receive the ſame fees as are by law allowed to proprietors' collectors.

Vendues for the ſale of lands to be holden in the town if organized.

Mode of filling up blanks in the advertiſements.

Collectors' fees.

SEC. 6. *And it is hereby further enacted*, That no one perſon ſhall be appointed a member of ſuch committee of ſuperintendance, with relation to more than one tax at the ſame ſeſſion of the legiſlature.

No perſon to be appointed on more than one committee.

SEC. 7. *And it is hereby further enacted*, That the committee of ſuperintendance as aforeſaid, or any two of them, are fully authoriſed and empowered, and it is hereby made their duty to lay out all the roads and affix on the place or places for building a bridge or bridges, as the caſe may be, in all unorganized towns, ſubject to the payment of ſuch tax.

Committee to lay out roads in unorganized towns.

To superintend the work.

And such committee, or either of them, appointed as aforesaid, are to superintend the work or labor necessary for the expenditure of said tax.

Allowed one dollar per day.

And the said committee shall each of them while actually and necessarily employed in said business, be allowed for such service one dollar per day.

SEC. 8. *And it is hereby further enacted*, That the several committees and collectors who have been appointed the present session of the legislature, or shall hereafter be appointed for the purpose of collecting and expending such taxes, shall govern themselves in the disposition of monies raised by such taxes, and in the sale of lands for the collection of the same, according to the directions of this act.

And collectors to govern themselves by this act.

SEC. 9. *And it is hereby further enacted*, That the act entitled, "An act regulating the disposition of monies raised by tax on lands in the several towns for the purpose of making and repairing roads and building bridges," passed March the eighth, one thousand seven hundred and eighty seven, and the act in addition to said act, passed October the twenty fourth, one thousand seven hundred and eighty-eight, be, and the same are hereby repealed.

Acts repealed.

Provided, That the repealing clause in this act shall not be construed to affect any proceedings already had, or that may be had, on any tax granted previous to the present session of the legislature.

Passed November 2, 1796.

CHAPTER LXI.

An ACT *pointing out the mode of notifying creditors by persons applying to the legislature for acts of suspension, &c.*

IT *is hereby enacted by the General Assembly of the State of Vermont*, That hereafter all persons prefering petitions to the general assembly for acts suspending prosecutions, acts of insolvency, or for liberation from imprisonment, when at the suit of individuals, shall notify their intentions, of making such application, by publishing the same with the time, place and nature of such intended application, in the news-papers printed in Windsor and Rutland, three weeks successively, the last time of which publication shall not be more than sixty or less than twenty days before such session of assembly.

Persons prefering petitions for act of insolvency, suspension, &c. to publish their intentions.

Provided proof of personal notice, in writing, at least twenty days before such session of assembly, to the person or persons against whose right such privilege is claimed, shall be considered as good notice, without advertising as aforesaid.

Personal notice sufficient without advertising.

And that any petition preferred for any of the causes aforesaid, without notice as in this act before directed, shall be dismissed.

Petitions to be dismissed without notice being given.

Passed November 5, 1796.

CHAPTER LXII.

An ACT *ascertaining the principles on which the* list *of this state shall be made, and directing* listers *in their* office *and* duty.

SECTION 1. IT *is hereby enacted by the General Assembly of the State of Ver-*

Polls, eſtate and property made liable to pay rates.

ment, That the polls, eſtate and property of the inhabitants of this ſtate, ſhall be liable to the payment of rates and taxes, in the proportion and under the regulations herein after directed.

Polls to be ſet in the liſt at twenty dollars.

SEC. 2. *And it is hereby further enacted*, That all male perſons reſiding in this ſtate, of the age of twenty-one years and upwards, and under the age of ſixty years, be ſet in the liſt at twenty dollars, for their polls reſpectively;

Perſons excepted.

except miniſters of the goſpel, and ſtudents of colleges, until three years from the time of their taking their firſt degrees reſpectively.

Improved land one dollar and ſeventy-five cents.

And that all lands within this ſtate which have been improved two years, either for paſturage, tillage, or mowing, or which ſhall be ſtocked with graſs, and within encloſure, ſhall be ſet in the liſt at one dollar and ſeventy-five cents per acre.

Houſes under one thouſand dollars at two per cent.

And that all dwelling-houſes, ſtores, and ſhops, actually occupied or rented (log-houſes excepted) of the value of one thouſand dollars or under, ſhall be aſſeſſed and ſet in the liſt at the rate of two per cent. according to the real value thereof;

Houſes over one thouſand dollars at three per cent.

and all dwelling-houſes, ſtores, and ſhops, actually occupied or rented, above the value of one thouſand dollars, ſhall be aſſeſſed and ſet in the liſt at the rate of three per cent. according to the real value thereof: which value ſhall be aſcertained by the liſters according to their beſt diſcretion and judgment.

Remedy for perſons aggrieved.

And if any perſon or perſons ſhall think himſelf, herſelf, or themſelves over-aſſeſſed as to the value at which ſuch houſes ſhall be ſet, he, ſhe, or they may proceed in the ſame manner, and have the ſame relief in all things, as is provided in the eighth ſection of this act.

And that certain articles of perſonal property ſhall be ſet in the liſt as follows, to wit, Each ox of four years old and upwards, at ten dollars; each bull, ſteer, heifer, or cow, of three years old and upwards, at ſix dollars and fifty cents; each bull, ſteer, or heifer, at two years old, at five dollars; each gelding horſe, mare, or mule, of three years old and upwards, at thirteen dollars and fifty cents; all horſe kind and mules of two years old, at ſix dollars and fifty cents; all horſe kind and mules of one year old, at three dollars and fifty cents; all ſtallions of three years old, at fifty dollars, and all ſtallions of four years old and upwards, at one hundred and fifty dollars; and all jack-aſſes kept for covering, at thirty dollars. And all houſe clocks, (except wooden clocks) at ten dollars; and all gold watches at ten dollars; and all other watches at five dollars. And every perſon having money on hand or due, on obligations for produce, cattle, or goods, over and above the debts due from ſuch perſons, ſhall be ſet in the liſt at the rate of ſix dollars, for every one hundred dollars.

Neat cattle ſet in the liſt.

Horſes. Three years old ſtallions fifty dollars.

Four years old ſtallions, one dollar and fifty cents.

Jackaſſes thirty dollars.

Clocks ten dols.

Gold watches ten dollars.

Other do. five dollars.

Money and notes ſix for every hundred dollars.

SEC. 3. *And it is hereby further enacted*, That when any perſon ſhall bring into any town in this ſtate a ſtallion or jack-aſs, for the purpoſe of covering, which ſhall be owned by any perſon or perſons living without this ſtate, it ſhall be the duty of the liſters to notify the perſon having the care of ſuch ſtallion, or jack, to give ſecurity to the treaſurer of the town in which ſuch ſtallion or jack ſhall be kept, for the payment of the taxes to which ſuch ſtallion, or jack would be liable, by this act, if they were owned in ſuch town.

Liſters to notify the keepers of ſtallions and Jacks living out of the ſtate to give ſecurity.

And if the owner or perſon having the care of ſuch ſtallion, or jack, ſhall for the

Perſons neglecting to give ſecurity to pay five dollars for every mare covered.

ſpace of ten days after ſuch notice, neglect to give ſuch ſecurity, he ſhall forfeit and pay the ſum of five dollars for every mare covered by ſuch ſtallion, or jack, during ſuch neglect; to be recovered by action of debt on this ſtatute, one moiety to the perſon proſecuting the ſame to effect, and the other moiety, to the town treaſury of ſuch town.

Stallions and jacks to be ſet in the liſt of perſons keeping them.

Provided always, That all ſtallions of three years and upwards, and jack-aſſes kept for covering, the owner or owners of which ſhall be an inhabitant or inhabitants of this ſtate, but ſhall not dwell in the town in which ſuch ſtallion or jack-aſs ſhall be kept, ſhall be ſet in the liſt of the perſon in the ſame town in whoſe care ſuch ſtallion or jack ſhall be kept; and if the perſon in whoſe care they are in keeping, be not an inhabitant of ſuch town, or if an inhabitant ſhall not be a perſon of property, of which the liſters of ſuch town ſhall be the judges, ſuch liſters ſhall ſeaſonably, or on the arrival of ſuch horſe or jack in ſuch town, give notice to the perſon in whoſe care ſuch ſtallion or jack is in keeping, as aforeſaid, to give ſecurity, as in this act is before directed, in caſe of ſtallions and jack-aſſes, which are owned without this ſtate; and upon the removal of ſuch ſtallion or jack, immediately after the twentieth day of June, if application be made for that purpoſe, ſuch liſters ſhall give a certificate, that ſuch ſtallion or jack is ſet in the liſt of ſuch town for that year. Which certificate ſhall be evidence to the liſters of any other town, to which ſuch ſtallion or jack ſhall be afterwards removed.

Perſons living out of the ſtate to find ſecurity.

If removed after the twentieth of June, liſters to give certificates.

SEC. 4. *And it is hereby further enacted*, That all land, and other property made liable to the payment of rates and taxes by this act, being or which ſhall be ſituate, in any town

Tenants to put lands in.

other than that in which the owner dwells, and in the occupancy of a tenant, ſhall be put into the liſt of ſuch tenant, in the town in which ſuch eſtate and property is or ſhall be ſituate, and ſuch eſtate and property, ſhall be liable to be levied upon, and ſold for the payment of ſuch rates, or taxes, as may be aſſeſſed on ſuch liſt.

to the liſt and the land liable to be ſold for the payment of taxes.

SEC. 5. *Provided nevertheleſs, and it is hereby further enacted,* That miniſters of the goſpel, who are or ſhall hereafter be ſettled in the miniſtry, or employed by contract, in the miniſtry for a term not leſs than one year at the ſame time, in any town in this ſtate, during the continuance of his miniſtry in ſuch town, ſhall for their rateable property to the amount of one thouſand dollars be exempted from the liſt. And all lands lying in this ſtate, ſequeſtered and improved for ſchools and other public, pious or charitable uſe, ſhall alſo in like manner be exempted. And the polls of the perſons, who by ſickneſs, lameneſs or other infirmity, are diſabled from obtaining a livelihood, by labor or other lawful means, ſhall alſo be exempted. And the polls of non-commiſſioned officers, and privates in the militia, ſubject to military duty, ſhall be exempted from the liſt, on which ſtate taxes are made and no other; and one horſe, owned by any one of the cavalry who is accoutred and equipped according to law, ſhall be likewiſe exempted from the liſt on which ſtate taxes are made, but upon no other.

Rateable property belonging to miniſters to be exempted to the amount of one thouſand dollars.

Public lands exempted, Polls of perſons ſick or lame exempted. Polls of the militia exempt from ſtate taxes. Horſes of the cavalry exempt from ſtate taxes

Provided always, That ſtallions, owned by any of the cavalry, ſhall not be exempted for any larger ſum than that at which a gelding is by this act to be ſet in the liſt.

Stallions to be exempt for no larger ſum than a gelding

SEC. 6. *And it is hereby further enacted,* That all licenſed attornies, practitioners of

Attornies phyſicians, ſur-

geons, owners of mills, mechanics and ſpeculators, to be aſſeſſed in proportion to their gains.

phyſic or ſurgery, merchants, traders, owners of mills, mechanics, and all other perſons, who gain a livelihood by buying, ſelling, or exchanging, or by other traffic, not in the regular channel of mercantile life, within this ſtate, ſhall be aſſeſſed in the liſt in proportion to the gains of their reſpective profeſſions, employments or buſineſs, according to the beſt diſcretion and judgment of the liſters.

Perſons liſting property through error, to be relieved

SEC. 7. *And it is hereby further enacted*, That if any perſon ſhall be ſet in the liſt any larger ſum than is by this act directed and required, through an error of ſetting eſtate or other property in his liſt, which was not owned by him on the twentieth day of the preceding June, or by the eſtimation on ſuch perſon's liſt, by the liſters, of articles of eſtate or other property, which he or ſhe, not through his or her neglect or wilfulneſs, ſhall have omitted or erroneouſly entered, in his or her liſt, the liſters ſhall, on ſatisfactory proof made to them of ſuch caſe, grant juſt and equitable relief.

Liſters to notify attornies &c. of the ſum of their aſſeſſments, and the time and place of their next meeting. Perſons overaſſeſſed the liſters on application to grant relief.

SEC. 8. *And it is hereby further enacted*, That the liſters ſhall notify ſuch licenced attornies, practitioners of phyſic or ſurgery, merchants, traders, owners of mills, mechanics and all other perſons, who gain a livelihood by buying, ſelling or exchanging, or by other traffic, not in the regular channel of mercantile life, as they ſhall aſſeſs or ſet in the liſt, as in this act before directed, of the ſums in which they are aſſeſſed reſpectively, and of the time and place of the next ſucceeding meeting of ſuch liſters. And if ſuch attornies, practitioners of phyſic or ſurgery, merchants, traders, owners of mills, mechanics, and all other perſons, who gain a livelihood, by buying, ſelling or exchanging, or by other traffic, not in the regular channel of mercantile

life, ſhall think themſelves over aſſeſſed, ſuch liſters, on application for that purpoſe, ſhall grant ſuch relief in the premiſes, as they ſhall judge juſt and reaſonable, to the perſon or perſons viewing himſelf or themſelves aggrieved; and on neglect or refuſal to grant ſuch relief, or if the relief granted ſhall not be ſatisfactory, the perſon or perſons viewing himſelf or themſelves ſo aggrieved, may apply to a juſtice of the peace of the ſame town, who, together with two or more of the ſelectmen of ſuch town, ſhall conſider and determine the caſe, as they ſhall judge juſt, firſt notifying two or more of the liſters to attend, and ſhow cauſe why the relief prayed for ſhould not be granted.

Liſters refuſing to grant relief, the aggrieved perſon may apply to a juſtice, or two or more ſelectmen for relief.

SEC. 9. *And it is hereby further enacted*, That it ſhall be the duty of the liſters of the ſeveral towns in this ſtate, or a majority of them, ſome time in the month of May, annually, to poſt up a notification in three or more of the moſt public places in their reſpective towns, warning all the inhabitants, liable to pay rates or taxes, to exhibit and deliver to the liſters, or ſome one of them, in writing, true liſts of their polls, and alſo of all the rateable eſtate and property, of which they ſhall be poſſeſſed on the twentieth day of June then enſuing, reſpectively, on or before the tenth day of July next following particularly mentioning in ſaid liſts, all ſuch polls, eſtate and property, ſigned with their names reſpectively; which liſt, ſaid liſters ſhall accept, adding thereto all ſuch aſſeſſments as ſhall be required and directed by this act, which are not particularly eſtimated, according to their beſt diſcretion and judgment, and make the whole into one general liſt, in the form following, to wit,

Liſters to ſet up a notification in the month of May annually.

Property to be liſted the twentieth of June.

Liſt to be given in on or before the tenth of July.

Liſters to add aſſeſſments to liſt.

STATE OF VERMONT.

General list of the town of
for the year

Polls at 20 dollars, is
Acres of improved land at 1.75, is
Houſes aſſeſſed in the whole at
Other property and aſſeſſments is
Amount
Two folds added
Militia polls exempted at 20 dollars, is
Horſes of the cavalry exempted at 13,50, is
Amount deducted
Balance, being the list for ſtate taxes

Form of general list.

} LISTERS.

SEC. 10 *Provided nevertheleſs, and it is hereby further enacted,* That if the liſters of any town ſhall neglect or omit to notify the inhabitants to exhibit and deliver their liſts, in the manner and within the time as before mentioned, in ſuch caſe they are hereby required, and directed, at any time previous to the 20th day of September then next following, to demand a liſt of every perſon, who ſhall not have exhibited or delivered the ſame. And if any perſon of whom ſuch liſt ſhall be thus demanded, ſhall neglect to exhibit or deliver the ſame to ſuch liſters, for more than five days after ſuch demand ſhall have been made, then ſuch liſters ſhall make a liſt for ſuch perſon, according to their beſt diſcretion and judgment, and enter the ſame in the general liſt of the town.

Liſters neglecting to notify in May, to make perſonal demand.

And ſuch perſon ſhall be liable to pay all ſuch rates or taxes, as ſhall be granted, aſſeſſed, or levied on ſuch liſt.

Non-residents to give in their list without notice, or be subject to be two-folded.

SEC. 11. *Provided also, and it is hereby further enacted*, That every person owning any houses or lands, liable to pay rates or taxes, situate in any town other than that in which he or she resides, and shall have no tenant living in or residing on the same, he or she shall exhibit and deliver to the listers of such town, or some one of them, a true list thereof, in manner before mentioned, without any notification other than is herein before directed, or such person shall be liable to be two folded.

Listers after the tenth of August, to inspect the list till the twenty-fifth of September, and add two-folds for polls and property left out:

SEC. 12. *And it is hereby further enacted*, That the listers of the several towns, after the tenth day of August annually, are hereby directed and required, carefully to inspect the lists of their towns respectively, until the twenty-fifth day of the succeeding September, and add thereto two folds for all the polls, and also for all the estate and property of which any person was possessed on the twentieth day of the preceding June, and of which polls, estate and property such person shall not have exhibited and delivered a true list as before directed in this act.

And if any doubt shall arise relative to such estate or property, it shall be considered as belonging to, and being owned by such person thus two folded, unless he or she can prove that it belonged to, or was owned by some other person on the said twentieth day of June.

Disposition of twofolds.

And the said listers shall add to said list, two folds, for the whole polls and rateable estate and property of such persons as shall not have exhibited, or delivered lists, as before directed, as a penalty on such persons for their neglect, who shall be liable to pay rates or taxes, according to such two-folds; and one moiety of all sums arising from such two-folds, shall

by the conſtables or collectors of the rates or taxes, be paid to the liſters, as a reward for their trouble. And the other moiety ſhall be collected and paid to and for the uſe for which ſuch rates or taxes ſhall be aſſeſſed or levied.

The ſum total of the two-folds to be added to the general liſt.

And the liſters ſhall add the ſum total of ſuch two-folds to the ſaid general liſt, particularly entering ſuch total of two-folds, as a ſeparate item, agreeably to the form of the liſt herein before preſcribed.

Liſters to return a liſt to the general aſſembly by the fifteenth day of October, with a certificate of their appointment.

SEC. 13. *And it is hereby further enacted*, That the liſters of the ſeveral towns ſhall return a general liſt in the form as is herein before preſcribed, to the general aſſembly, on or before the fifteenth day of October annually, with a certificate from a juſtice of the peace, or the town clerk of the ſame town, reſpectively, certifying that they were duly ſworn to the faithful diſcharge of their office and duty, previous to the fifth day of the preceding May.

Penalty for neglect.

And the liſters of every town who ſhall neglect to make return of ſuch general liſt to the general aſſembly, as aforeſaid, ſhall forfeit and pay to the treaſurer of this ſtate, the ſum of ſeventeen dollars, to be recovered in the name of the treaſurer, by action of debt on this ſtatute, before any court of competent juriſdiction.

Towns to be doomed where the liſt is not returned.

SEC. 14. *And it is hereby further enacted*, That if no return of a general liſt from any town ſhall be made as before directed, or if the return be not ſatisfactory, ſuch town ſhall be doomed in ſueh ſum as the general aſſembly in their diſcretion ſhall direct.

Not to be doomed unleſs repreſented without

Provided always, That no town, unleſs the ſame be repreſented in the general aſſembly, ſhall be doomed to pay ſtate taxes, until it ſhall appear to the legiſlature that the liſt of

ſuch town amounts to the ſum of three thouſand three hundred and thirty dollars.

the liſt amounts to 3330 dollars.

Provided nevertheleſs, That the above proviſo ſhall not be conſtrued to extend to exempt any town which ſhall have been, or which may hereafter be taken off or divided from any other town or towns.

Towns divided or ſet off not to be exempted.

SEC. 15. *And it is hereby further enacted*, That it ſhall be the duty of the liſters of each organized town in this ſtate, although ſuch town ſhall not be repreſented in the general aſſembly, to return to the ſecretary of the ſtate, on or before the fifteenth day of October annually, a general liſt as aforeſaid, of ſuch town.

Liſters of towns unrepreſented to ſend their liſt to the ſecretary of ſtate, or the town to be doomed.

And if the liſters of any ſuch town neglect or refuſe to return ſuch liſt, ſuch town ſhall be liable to be doomed in the diſcretion of the legiſlature.

SEC. 16. *And it is hereby further enacted*, That the ſaid liſters ſhall, ſome time in the month of October, annually, make out and deliver a particular and fair liſt of the polls, eſtate and property of the ſeveral inhabitants of their reſpective towns, certified under their hands, to the town clerks of their ſeveral towns, taking their receipts for the ſame, on penalty, ſeverally of forfeiting and paying the ſum of ten dollars to the treaſury of ſuch town, to be recovered by action of debt, to be brought on this ſtatute, by the treaſurer of ſuch town, before any court of competent juriſdiction.

Liſters to make out a fair liſt in October, and deliver to the town clerk.

Penalty for neglect.

SEC. 17. *And it is hereby further enacted*, That for enabling liſters to recover their moiety of taxes on two-folds, as directed by this act, if any conſtable or collector of rates or taxes ſhall refuſe or neglect to pay over any ſum or ſums of money accruing on ſuch two-folds, due to ſuch liſters, after demand made, ſuch liſters may recover the ſame

Liſters empowered to recover their part of two-folds from collectors.

from such constable or collector in an action for monies had and received, brought on this statute, before any court of competent jurisdiction.

Parishes, districts and other places to be considered as towns.

SEC. 18. *And it is hereby further enacted*, That all places incorporated by the names of parishes, districts or other places, with town privileges, are hereby declared to be towns in the purview of this act.

Acts repealed.

SEC. 19. *And it is hereby further enacted*, That all acts and clauses of acts coming within the purview of this act, be, and the same are hereby repealed, and this act shall commence and be in force from and after the passing hereof.

Proviso.

Provided always, That this section shall not be construed to extend to or affect any acts or things done, rights accruing, or prosecutions commenced, under any former act or acts.

Passed March 20, 1797.

CHAPTER LXIII.

An ACT *declaring what shall be the* money of account *in this state, and the manner in which accounts shall be kept.*

Accounts judgments, &c. to be kept in dollars, and its parts.

SECTION 1. IT *is hereby enacted by the General Assembly of the State of Vermont*, That the money of account in this state, shall be the dollar and its parts; and that all accounts in the treasury department, and other public offices, and all proceedings in courts of justice, including courts of probate, shall hereafter be had, and kept in conformity to laws of the United States, and this act,

SEC. 2. *And it is hereby further enacted,* That in all the forms of writs, proceſſes or other inſtruments or writings, heretofore uſed in the treaſury department, or in any other public office, or in the courts of juſtice, including courts of probate, in which any ſum or ſums of money has, or have been required to be expreſſed in pounds, ſhillings, pence and farthings, ſhall be altered to, and expreſſed in an equivalent ſum in dollars, and the parts of a dollar, as before directed.

Pounds, ſhillings, &c to be expreſſed in all writs, &c. in dollars.

SEC. 3. *Provided always, and it is hereby further enacted,* That this act ſhall not be conſtrued to affect, vitiate or nullify, any account, charge, entry, or memorandum originally made, or which may be made, or any bond, bill, note, receipt, endorſement or other inſtrument or writing which expreſſes, or which may hereafter expreſs, any ſum or ſums of money, other than the dollar and its parts, but the ſame ſhall be altered to, and expreſſed in an equivalent ſum in dollars and the parts of a dollar, as the reſpective caſes occurring, ſhall require, any thing herein contained, to the contrary notwithſtanding.

Accounts &c not to be vitiated although not expreſſed in dollars.

Paſſed November 4, 1797.

CHAPTER LXIV.

An ACT *appointing* ſtate's attornies, *and* clerks *of the* ſupreme court, *in the ſeveral counties in this ſtate, and regulating their office and duty.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont,* That there ſhall be appointed by the legiſlature, at their ſtated ſeſſion, in October annually, in the ſame manner as county offic-

State's attornies how appointed.

ers are elected, one ſtate's attorney, within and for each of the counties in this ſtate, who ſhall be duly ſworn upon his oath of office: And before he enters on the execution of his ſaid office, ſhall become bound, with one or more ſureties, before one of the judges of the county court to which he belongs, by a recognizance, in the ſum of four thouſand dollars, taken to the treaſurer of this ſtate, for the faithful performance of the duties of ſaid office. Which recognizance ſo taken, ſhall by ſaid judge, be returned to the clerk of the county court, of the reſpective county, and be by him recorded at large; a certified copy of which, ſhall be read as evidence, in any court in this ſtate. And it ſhall be the duty of ſaid attornies, to proſecute all matters and cauſes, within their reſpective counties, which are cognizable by the ſupreme and county courts, reſpectively, in behalf of this ſtate.— To adviſe with the judges of ſaid courts, in ſettling the form of all mandatory, and other ſelect writs; to file informations, *ex officio*, in ſaid court, in matters proper therefor.— And ſaid attornies, in their ſeveral counties, ſhall have full power to take all legal meaſures to collect all ſuch fines and forfeitures, penalties, coſts, debts, dues and demands, or ſum or ſums of money, which may have been, or ſhall be adjudged, laid or aſſeſſed, by ſaid ſupreme or county courts, or otherwiſe due or payable to the treaſurer of this ſtate, or to either of the county treaſurers, and the ſame pay over, when collected, to the treaſury to which, by law, the ſame is, or ſhall be made payable.

To enter into bonds.

Their duty.

And it is hereby further enacted, That the ſaid ſeveral ſtate's attornies, ſhall, annually at the October ſeſſion, make out and tranſmit to the ſtate's treaſurer, a true account, certified,

To tranſmit annually to the ſtate's treaſurer

at leaſt, by one of the judges of the ſupreme court, of all demands in favor of the ſtate, and alſo all monies by them collected, in behalf of the ſtate, with the number and names of the ſeveral ſuits, together with a fair ſtatement of the expenditures and coſts, in each action by them proſecuted, before the ſupreme court, in their reſpective counties. And it is hereby made the duty of the treaſurer of the ſtate, on the receipt of ſuch returns to tranſmit a copy thereof to the clerk of the general aſſembly, whoſe duty it ſhall be to enter the ſame on the journals of the houſe.

a true account of monies collected, &c.

SEC. 2. *And it is hereby further enacted*, That in caſe of the death, removal or reſignation of either of ſaid attornies, the judges of the ſupreme or county court, in ſaid county, ſhall have full power to appoint ſome other perſon to officiate in ſaid office, until the next ſeſſion of the legiſlature.

Vacancies how filled.

SEC. 3. *And it is hereby further enacted*, That the ſeveral ſtate's attornies ſhall account with ſuch auditor as ſhall be appointed by the judges of the county courts, in their reſpective counties, for all demands and monies due, or by them collected, and belonging to the treaſurer of ſuch county: And ſhall lodge with ſuch treaſurer, a fair ſtatement of all monies due and payable into ſuch treaſury, with the names of the ſuits, and the expenditures of the ſame.

To account with auditor.

SEC. 4. *And it is hereby further enacted*, That the ſaid ſtate's attornies, ſo proſecuting in behalf of the ſtate, in any criminal proceſs, ſhall not under any pretence whatever, directly or indirectly, take or receive any fee or reward, from any perſon or perſons, who may be plaintiff or defendant, in any civil cauſe, ariſing out of the tranſaction of the party or

Not to take a fee in certain caſes.

parties, which occaſioned the ſaid criminal cauſe or cauſes, by him proſecuted.

Not allowed a fee in certain caſes.

Provided always, That when either of ſaid ſtate's attornies ſhall file an information *ex officio*, againſt any perſon or perſons, before either of the county or ſupreme courts, without the ſpecial direction of ſaid courts, and the reſpondent or reſpondents named in ſuch information, ſhall, on trial, not be found guilty, and by ſaid courts, reſpectively, be diſcharged without coſts, in every ſuch caſe, the attorney ſhall be allowed no fee or reward, for drawing, filing or proſecuting ſuch information, before ſaid court.

Supreme court to appoint one clerk in each county who ſhall be ſworn;

SEC. 5. *And it is hereby further enacted*, That it ſhall be the duty of the judges of the ſupreme court, to appoint one clerk in each of the counties within this ſtate, who ſhall be an inhabitant of the county for which he is appointed; and who ſhall be ſworn to the faithful diſcharge of his duty as clerk of ſaid court, in the county for which he is appointed; and that ſuch clerks reſpectively, previous to their entering upon the buſineſs of their appointment, ſhall become bound, with ſufficient ſureties, by way of recognizance, before one of the judges of ſaid court, in the ſum of two thouſand dollars, to the treaſurer of this ſtate, for the faithful diſcharge of their duties, as clerks to ſaid courts; which bonds ſhall be taken *annually*, at the ſtated ſeſſion of ſaid court.

and give bond.

Clerks to make out and transfer to the general aſſembly a ſtatement of all ſtate cauſes.

SEC. 6. *And it is hereby further enacted*, That the ſaid ſeveral clerks aforeſaid, ſhall make out and tranſmit to the general aſſembly of this ſtate, at their October ſeſſion, annually, a true and juſt ſtatement of all the civil cauſes in favor of the ſtate's treaſury, and alſo all the criminal cauſes, that ſhall be entered in the docket of ſaid court, in their re-

ſpective counties, and the ſituation of the cauſes, together with the expence of proſecution; and of the fines and forfeitures laid and aſſeſſed by ſaid court.

SEC. 7. *And it is hereby further enacted,* That it ſhall be the duty of the ſeveral clerks of ſaid ſupreme court, to keep fair accounts of all orders by them drawn on the treaſurer of this ſtate, under the direction of ſaid court, and tranſmit duplicates thereof to ſaid treaſurer, immediately after each ſeſſion of ſaid court. And no monies ſhall be paid by ſaid treaſurer, until ſuch duplicates are lodged in his office. To keep fair accounts.

SEC. 8. And whereas the records of ſaid ſupreme court have heretofore been kept by one clerk, and it being convenient and expedient, that ſaid records ſhould ſtill be continued together, and near the center of the ſtate—

Therefore,

It is hereby further enacted, That all the records, files and papers belonging to ſaid ſupreme court, which have been heretofore kept by one clerk only, ſhall be lodged with the clerk who is, or ſhall, from time to time, be appointed by ſaid ſupreme court in the county of Rutland, and ſhall by ſuch clerk, be kept in ſaid county, and on application, it ſhall be the duty of ſuch clerk, to make out copies, of all, or any part of ſaid records, for the ſame fees, as are by law allowed to the clerks of ſaid court, in their office and duty; and to certify and deliver the ſame, as true copies of the original records, which copies ſhall be read and received, by all courts in this ſtate, as proper office copies of the ſaid ſupreme court. Former records to be lodged in Rutland county.

State's attornies and clerks to make out their accounts to be allowed by the legiſlature.

SEC. 9. *And it is hereby further enacted*, That the ſaid ſtate's attornies and clerks aforeſaid, ſhall, at each ſtated ſeſſion of the legiſlature, make out and exhibit their ſeveral accounts, of all ſervices by them done, by virtue of their office, regularly allowed, and ſigned by one of the judges of ſaid court; and no monies ſhall be paid out of the treaſury, on the ſaid accounts, until they ſhall be examined and allowed by the legiſlature.

Judges of ſupreme court to examine and certify their accounts.

SEC. 10. *And it is hereby further enacted*, That it ſhall be the duty of the judges of the ſupreme court, to examine the ſaid ſeveral ſtatements and accounts made by the ſaid attornies and clerks agreeably to this act, and the records, documents and papers from which they were taken, and if on examination, they find the ſaid ſtatements and accounts ſo made are juſt, then to certify the ſame in ſuch manner as is in this act before directed.

County courts to appoint auditors to audit county treaſurers accounts.

SEC. 11. *And it is hereby further enacted*, That the judges of the ſeveral county courts ſhall have power to appoint auditors, to ſettle the accounts of their reſpective county treaſurers and ſtate's attornies; which auditors ſhall be ſworn to the faithful performance of their truſt; and ſaid auditors ſhall have all the powers neceſſary to make any transfer of books, papers, weights and meaſures, from one treaſurer to another, as occaſion may require; and every ſettlement ſo made, ſhall be deemed valid.

Auditor's power.

Penalty for county treaſurer neglecting to make ſettlements.

SEC. 12. *And it is hereby further enacted*, That if any county treaſurer ſhall refuſe or neglect to make any ſuch ſettlement or transfer as aforeſaid, after being duly notified by one or more of ſaid auditors, for every month that he ſhall neglect, after one month from the time of ſuch notice, he ſhall forfeit and

pay a fine of ten dollars, for the uſe of ſuch county treaſury, to be recovered by bill, plaint or information, before any court propet to hear and determine the ſame. And it ſhall be the duty of the ſtate's attornies to proſecute for all breaches of this act, in their reſpective counties.

Penalty for ſtate's attornies neglecting to ſettle their accounts.

SEC. 13. *And it is hereby further enacted*, That if any ſtate's attorney ſhall neglect or refuſe to ſettle his accounts, *annually*, with the auditors appointed for that purpoſe, after being notified by one or more of ſaid auditors, for every month he ſhall neglect, after one month from the time of ſuch notice, ſhall forfeit and pay a fine of ten dollars, for the uſe of the county treaſury in which ſuch proſecution ſhall be had; which fine ſhall be recovered in the ſame manner as fines are recovered of county treaſurers. And it ſhall be the duty of the clerks of the county courts to proſecute the ſtate's attornies, for all breaches of this act, in their reſpective counties.

Acts repealed.

SEC. 14. *And it is hereby further enacted*, That all acts, and parts of acts, coming within the purview of this act; and all acts and parts of acts reſpecting the duty, appointment and office of an attorney general, which are now in force, be, and the ſame are hereby repealed.

Paſſed November 10, 1797.

CHAPTER LXV.

An ACT *directing the mode of electing* ſenators *to repreſent this ſtate in the congreſs of the* United States.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Ver-*

mont, That the ſenators to repreſent this ſtate in the congreſs of the United States, ſhall be elected in the following manner:

Senators how elected.

The governor, and council and general aſſembly, in their reſpective houſes, at a time mutually agreed upon for that purpoſe, ſhall each ballot for the number of ſenators to be elected; and the name or names of the perſon or perſons ſo ballotted for, who ſhall have a majority of the whole number of votes in each houſe reſpectively, ſhall be entered upon their journals, by their reſpective clerks or ſecretaries; immediately after which, both houſes ſhall convene in joint-committee, before whom the proceedings of the ſeveral houſes ſhall be read by their reſpective clerks or ſecretaries; and if the two houſes ſhall have united in the ſame perſon or perſons, ſuch perſon or perſons ſhall be declared duly elected a ſenator or ſenators to repreſent this ſtate in the congreſs of the United States. But if the ſeveral houſes ſhall not have united in the ſame perſon or perſons, the joint-committee ſhall then proceed by ballot, to elect a perſon or perſons for the purpoſe aforeſaid; and the ballots being taken and ſorted, the perſon or perſons having a majority of all the votes of ſaid committee, ſhall be declared duly elected as aforeſaid.

Governor to give certificate.

SEC. 2. *And it is hereby further enacted*, That it ſhall be the duty of the governor, or in his abſence the lieutenant-governor, to certify under the ſeal of the ſtate, to the preſident of the ſenate of the United States, the perſon or perſons ſo elected, to have been elected agreeably to law, which certificate ſhall be counter-ſigned by the ſecretary of ſtate.

Paſſed November 4, 1797.

CHAPTER LXVI.

An ACT *for the inſpection of* beef, pork, flour, *and* kiln dried meal.

SECTION I. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That all barrels for packing beef or pork for exportation, ſhall be new and made of good white oak ſtaves, and white-oak or good aſh heading, and ſhall not be of leſs guage than twenty-eight, nor more than thirty gallons each, with, at leaſt, twelve hoops on each barrel: That all half barrels for packing beef or pork, ſhall be new, and made of the ſame timber, with the ſame number of hoops, &c. and ſhall not be of leſs guage than fourteen and an half, nor more than fifteen gallons each. Dimenſions and quality of barrels for packing beef and pork.

SEC. 2. *And it is hereby further enacted*, That there ſhall be four qualities of beef, *viz.* MESS, PRIME, CARGO and HOCK. The *meſs* to be of the beſt quality of ox or cow beef, free from hocks or necks. The *prime* beef to be of the ſecond quality, to conſiſt of one round, and not more than two hocks and half a neck. The *cargo* beef to be of the third quality, to conſiſt of three hocks and half a neck. And *hock* beef or fourth quality to conſiſt of hocks and necks. Each barrel of beef ſo packed, ſhall contain two hundred *net* weight, and each half barrel one hundred *net* weight. Qualities of beef.

SEC. 3. *And it is hereby further enacted*, That there ſhall be four qualities of pork, known and diſtinguiſhed by the names of *meſs*, *one hog*, *prime* and *cargo* pork. *Meſs* pork to conſiſt of middle pieces only. *One-hog* pork to be one hog in a barrel. *Prime* pork to conſiſt of three ſhoulders and one head and an half, the head ſhall not weigh Qualities of pork.

more than twenty-four pounds to each barrel. The *cargo* pork to conſiſt of five ſhoulders, and not more than thirty pounds of head to each barrel. And every barrel ſo packed, ſhall contain two hundred *net* weight; and every half barrel ſhall contain one hundred *net* weight.

Pork and beef to be well ſalted.

SEC. 4. *And it is hereby further enacted*, That all barrels and half barrels of beef or pork, packed as aforeſaid, ſhall be well ſalted and pickled, and to every barrel of beef, there ſhall be added four ounces of ſalt petre, and to every half barrel two ounces.

Barrels to be branded.

SEC. 5. *And it is hereby further enacted*, That all barrels and half barrels of beef or pork, ſhall be branded on one of the heads, with the initial letter of the owner's chriſtian name, and his ſir name at full length. Alſo the qualities of beef or pork contained in ſuch barrel, or half barrel, together with the figures "200" on all whole barrels, and "100" on all half barrels.

Qualities of flour.

SEC. 6. *And it is hereby further enacted*, That there ſhall be three qualities, of flour, diſtinguiſhed by the names of SUPERFINE, FINE and COMMON. And the manufacturer of the flour, ſhall, on one of the heads of each caſk, brand the initial letter of his chriſtian name, and his ſir name at full length; and he ſhall alſo brand thereon theſe words, *ſuperfine*, *fine* or *common* according to the quality for which it ſhall have been packed.

Flour caſk to be branded.

Dimenſions of flour barrels.

SEC. 7. *And it is hereby further enacted*, That all barrels containing flour for exportation, ſhall be well made and trimmed, with, at leaſt, ten hoops, ſhall be tarred on one head, and ſhall contain one hundred and ninety-ſix pounds of flour, which ſhall be branded in figures "196" on one of the heads. And that all corn meal, manufactured and put up

for exportation ſhall be made of corn kiln-dried and properly ground, boulted and cooled before packed. And that all caſks uſed for putting up ſuch meal, ſhall be barrels well made of ſound timber, and trimmed with at leaſt ten hoops, or hogſheads made of good white oak ſtaves and heading, clear of ſap and well ſeaſoned, ſuitable for holding ſpirits, or of other timber well ſeaſoned with pine heads and ſuitable for holding molaſſes. And all ſuch hogſheads ſhall be well trimmed with, at leaſt, ſixteen hoops, and ſhall be of the guage of, at leaſt one hundred and ten gallons.

Quality of meal and meal caſks.

SEC. 8. *And it is hereby further enacted*, That every manufacturer of ſuch meal, ſhall pack in ſuch barrel one hundred and ninety-ſix pounds; and in each hogſhead, at leaſt, ſeven hundred pounds; and ſhall on one of the heads of each caſk mark the tare and brand the quantity; alſo the letters B K. D. M. for boulted kiln dried meal, and the initial letter of his chriſtian name and his ſir name at full length.

Meal caſks to be branded.

SEC. 9. *And it is hereby further enacted*, That the civil authority and ſelectmen of the ſeveral towns in this ſtate, in which the ſeveral articles in this act enumerated, are put up for exportation, are authoriſed and directed to appoint ſome meet perſon or perſons to be inſpectors or packers for the purpoſes mentioned in this act; who ſhall be ſeverally ſworn to a faithful diſcharge of their duty. And ſuch inſpectors or packers ſo appointed, may on complaint in writing, and ſufficient reaſon being ſhown, be removed from office by the civil authority and ſelect men of ſuch town; and each inſpector or packer ſhall brand on the head of every barrel or caſk by him packed or inſpected as aforeſaid, the in-

Authority and ſelectmen to appoint inſpectors,

who ſhall be ſworn

May be removed.

Duty.

itial letter of his chriſtian name, and his ſir name at full length, and the name of the town where the ſame ſhall be inſpected; and alſo the quality of all beef, pork, flour and meal, and the weight and alſo the word "Inſpected."

Inſpector's fees.

SEC. 10. *And it is hereby further enacted*, That all inſpectors and packers, ſhall be entitled to receive for their ſervices the following fees or reward, *to wit*, for packing, pickling, flagging, heading and branding each barrel of beef or pork, thirteen cents, and for each half barrel of the ſame nine cents; for inſpecting and branding every barrel of flour or meal three cents; and for every hogſhead of meal ten cents. And every ſuch packer or inſpector ſhall give to any perſon, who ſhall procure him to inſpect or pack any of the articles herein before enumerated, a certificate under his ſignature in his capacity aforeſaid, that the ſame has been inſpected, packed and branded, conformably to this act, without any additional fee or reward.

To give certificate.

Penalty for taking out or ſhifting after inſpection.

SEC. 11. *And it is hereby further enacted*, That if any perſon or perſons, after the inſpection, packing and branding of any caſk, barrel, half barrel, hogſhead or other veſſel or caſk, containing any of the articles herein enumerated, ſhall fraudulently take out, ſhift or change any part of the contents thereof, or ſhall falſely brand any caſk, barrel, half barrel, hogſhead, or other veſſel or caſk, with the name of any packer or inſpector, or ſhall procure the ſame to be packed or branded as aforeſaid, he or they ſhall forfeit and pay the ſum of ſeven dollars for every caſk or other veſſel containing either of the articles aforeſaid, ſo falſely branded; or of which any part of the contents have been fraudulently taken out or changed, to be recovered by

action, bill, plaint, or information, the one moiety thereof to the perſon who ſhall ſue for and proſecute the ſame to effect, and the other moiety thereof to the treaſury of the town in which the offence ſhall be committed, with coſts of proſecution before any court having competent juriſdiction.

SEC. 12. *And it is hereby further enacted*, That every inſpector or packer, who ſhall give a falſe certificate, ſhall be ſubject to the ſame penalty as is provided in the laſt preceding ſection, to be recovered in the manner and to the uſes aforeſaid, and ſhall forfeit his office. Penalty for giving falſe certificate.

Paſſed November 10, 1797.

CHAPTER LXVII.

An ACT *directing* leather-ſealers *in their* office *and* duty *and regulating the ſale of* leather, boots *and* ſhoes, *and the manufacture and ſale of* iron *and* nails.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That every leather-ſealer in the ſeveral towns in this ſtate, who is not already furniſhed, ſhall within one month after this act ſhall be in force, at the expence of the town for which he is appointed, furniſh himſelf with two proper ſtamps or ſeals, one of which ſhall make a fair impreſſion of the capital letter G. the other of the letter B. for the purpoſe of ſealing ſuch leather, as ſhall be offered for inſpection, on penalty of forfeiting and paying one dollar for every month he ſhall ſo neglect, to be recovered by action of debt, brought on this ſtatute; one moiety thereof to the perſon Leather-ſealers to furniſh themſelves with ſtamps.

who ſhall ſue for and proſecute the ſame to effect; and the other moiety to the town treaſurer of the town, in which ſuch neglect ſhall happen, together with coſts of proſecution.

Duty of leather ſealers.

SEC. 2. *And it is hereby further enacted*, That it ſhall be the duty of ſuch leather-ſealer, on application of any perſon offering any leather for inſpection, carefully to examine ſuch leather, and ſuch as he ſhall find well tanned, dreſſed, dried and fit for market, to ſtamp or ſeal with the letter G. and ſuch as he ſhall find not fit for market with the letter B. and every leather-ſealer ſhall be entitled to receive two cents for every ſkin or ſide of leather, ſo by him ſtamped or ſealed, from the perſon offering the ſame for inſpection.

Penalty for ſelling leather without being ſealed.

SEC. 3. *And it is hereby further enacted*, That if any tanner or other perſon exerciſing or engaged in the buſineſs of tanning, ſhall ſell or expoſe for ſale, any neat's leather or calf ſkin, or tanned horſe or colt's hide, until it ſhall be firſt ſtamped or ſealed as aforeſaid, he ſhall forfeit and pay double the value of ſuch leather or hide, one moiety thereof to the perſon who ſhall ſue for and proſecute to effect, and the other moiety to the treaſury of the town in which ſuch ſale or expoſure for ſale happened. And if any merchant or other perſon, in any town in this ſtate ſhall ſell or expoſe for ſale any leather or hide, as before mentioned, not ſtamped or ſealed as aforeſaid, he ſhall ſuffer the like penalty in the ſame manner. as is before directed in this ſection; unleſs it ſhall have been ſtamped or ſealed in ſome other place, before it was brought into this ſtate.

Penalty for making and ſelling

SEC. 4. *And it is hereby further enacted*, That if any perſon ſhall make any boots or ſhoes of bad leather, and ſhall ſell the ſame as made of good merchantable leather, he

shall forfeit and pay for each pair of boots so sold the sum of two dollars and fifty cents, and for each pair of shoes so sold one dollar, to be recovered in manner as is directed in the last preceding section of this act. boots and shoes made of bad leather;

Provided nevertheless, That such leather as shall be found not to be good may be used for any other purposes except being worked into boots and shoes.

SEC. 5. *And it is hereby further enacted*, That if any person shall sell, or expose for sale any boots or shoes made of horse-hide, sheep-skin or dog-skin, as made of good merchantable neat's leather or calf-skin, he shall suffer the same penalty, in the same manner as is provided in the third section of this act. or of horse hide or sheep skin for neats' leather.

SEC. 6. *And it is hereby further enacted*, That if any person shall bring into this state any boots or shoes made of leather condemned as bad in any other state, or made of horse or colts'-hide or of sheep or dogs' skin, and sell or offer the same for sale as good and merchantable neat's leather or calf-skin, he shall be liable to the same penalty, in the same manner as is prescribed in the third section of this act. Forbringing them into the state and selling them for neats' leather.

SEC. 7. *And it is hereby further enacted*, That every bar of iron manufactured within this state shall be stamped with the name of the forge, and the owner thereof, and the name of the town in which the forge stands, and with this stamp or mark to distinguish whether it be bloomery or refined, viz. B. for bloomery, and R. for refined. And if any person shall sell or offer for sale or exportation, any iron manufactured within this state, not being so stamped and marked, he shall for every bar thereof, so sold or offered for sale or exportation, forfeit and pay the sum of five Bar iron to be stamped.

Penalty for selling without a stamp.

dollars, one moiety thereof to the perſon who ſhall ſue for and proſecute the ſame to effect, and the other moiety to the treaſury of the town in which ſuch forfeiture ſhall be had, with coſts of proſecution. And if any perſon ſhall ſell or offer for ſale any iron which ſhall have a counterfeit ſtamp or mark, he ſhall for every bar thereof, forfeit and pay the ſame ſum, to be recovered in the ſame manner as is before provided in this ſection.

For ſelling with a counterfeit ſtamp.

SEC. 8. *And it is hereby further enacted*, That all wrought ten penny nails manufactured within this ſtate and ſold or offered for ſale or tendered as merchantable, ſhall count at leaſt ſeventy in number to every pound weight; and all eight-penny nails, wrought, manufactured, ſold, offered for ſale, or tendered as aforeſaid, ſhall count at leaſt ninety in number to every pound-weight. And if any perſon ſhall ſell, offer for ſale, or tender as merchantable, any nails manufactured as aforeſaid, which ſhall not count in number by the pound-weight as aforeſaid, he ſhall forfeit and pay the ſum of fifty cents for every pound-weight of nails, of either of the deſcriptions aforeſaid, which he ſhall ſo ſell, offer for ſale or tender as merchantable; one moiety thereof to the perſon who ſhall ſue for and proſecute the ſame to effect, and the other moiety to the treaſury of the town in which ſuch forfeiture ſhall be had, with coſts of proſecution.

Nails, their number regulated to the pound.

Paſſed November 9, 1797.

CHAPTER LXVIII.

An ACT *for the limitation of ſuits on penal ſtatutes, criminal proſecutions, and actions at law.*

SECTION 1. IT *is hereby enacted by the General Aſſembly of the State of Vermont,* That all actions, ſuits, bills, or informations which ſhall hereafter be had, brought, ſued or commenced, for any forfeiture upon any penal ſtatute, made or to be made, the benefit whereof is or ſhall be, by the ſaid ſtatute, limited in whole or in part, to the perſon or perſons who ſhall inform and proſecute in that behalf, ſhall be had, brought, ſued or commenced, by any perſon or perſons who may lawfully purſue the ſame as aforeſaid, within one year from the paſſing of this act, for paſt offences; and for all offences which ſhall hereafter be committed, within one year from the commiſſion of the ſame, and not afterwards; and in default of ſuch purſuit, then the ſame ſhall be had, brought or proſecuted by the ſtate, at any time within two years, next after the paſſing of this act, for paſt offences, and for all offences which ſhall hereafter be committed, within two years from the commiſſion of ſuch offences, and not afterwards. And any indictment, complaint, or information for any offence againſt ſuch ſtatute as aforeſaid, ſhall hereafter be found, made and proſecuted within two years limited as aforeſaid, and not afterwards; any law, uſage or cuſtom to the contrary notwithſtanding, excepting in the inſtances herein after provided.

Qui tam actions limited.

SEC. 2. *Provided nevertheleſs, and it is hereby further enacted,* That when any action, ſuit, bill, complaint, information or in-

Limitation in penal ſtatutes to govern.

dictment for any offence againſt any penal ſtatute, already made or which ſhall hereafter be made, is or ſhall be limited by ſuch ſtatute, to be brought, had or proſecuted, within a ſhorter or longer time than is above mentioned, ſuch action, ſuit, bill, complaint, information or indictment in every ſuch caſe, ſhall be brought, had or proſecuted within the time limited by ſuch ſtatute.

Limitation of actions for inferior crimes.

SEC 3. *And it is hereby further enacted*, That all actions, ſuits, bills, complaints, informations or indictments, which at any time hereafter ſhall be brought, had, commenced, or proſecuted for any crime or miſdemeanor, (theft, robbery, burglary, forgery, arſon, and murder excepted) ſhall be brought, had, commenced or proſecuted within three years next after the offence was committed or ſhall be committed, and not after the expiration of the ſaid three years. And all actions, ſuits, bills, complaints, informations and indictments which ſhall be brought, had, commenced and proſecuted for theft, robbery, burglary, and forgery, ſhall be brought, had, commenced and proſecuted within ſix years next after the commiſſion of the offence and not afterwards. And if any action, ſuit, bill, complaint, information or indictment for any crime or miſdemeanor, (except arſon and murder) ſhall be brought, had, commenced, or proſecuted, after the time hereby limited, that then the ſame ſhall be void and of no effect, any law, uſage, or cuſtom to the contrary notwithſtanding.

For actions of theft, robbery, burglary and forgery.

Limitations in ſtatutes to govern.

SEC. 4. *Provided always, and it is hereby further enacted*, That when any information or indictment, or other ſuit, for any crime or miſdemeanor, is limited by any ſtatute to be brought, had, commenced or proſecuted within a ſhorter or longer time, than is hereby

limited, then and in every ſuch caſe, the information, indictment or other ſuit, ſhall be brought, had, commenced or proſecuted within the time limited by ſuch ſtatute.

Clerk or magiſtrate to enter the time of exhibiting the complaint.

SEC. 5. *And it is hereby further enacted*, That when any bill, complaint, information or indictment, ſhall be exhibited, or any action or ſuit brought or commenced, in any of the caſes mentioned in the preceding ſections of this act, the clerk of the court or magiſtrate to whom ſuch bill, complaint, information or indictment ſhall be exhibited, or who ſhall ſign the original writ in ſuch action or ſuit, brought or commenced as aforeſaid, ſhall at the time of exhibiting or ſigning as aforeſaid, make a minute in writing under his official ſignature, on ſuch bill, complaint, information, indictment or original writ, of the true day month and year, when the ſame was ſo exhibited or ſigned: And every bill, complaint, information, indictment or original writ, on which a minute of the day, month and year, ſhall not be made as aforeſaid, ſhall be void.

Limitation of real actions.

SEC. 6. *And it is hereby further enacted*, That no writ of right or other real actions; no action of ejectment or other poſſeſſory action, of whatſoever name or nature, ſhall hereafter be ſued, proſecuted or maintained, for the recovery of any lands, tenements or hereditaments, if the cauſe of action ſhall accrue after the paſſing of this act, but within fifteen years next after the cauſe of action ſhall accrue, or have accrued to the plaintiff or demandant, or plaintiffs or demandants, or thoſe under whom he, ſhe or they claim. And that no perſon having right or title of entry into houſes, lands, tenements or hereditaments, ſhall hereafter thereinto enter, but

within fifteen years next after ſuch right of entry ſhall accrue or have accrued.

Limitation of perſonal actions.

SEC. 7. *And it is hereby further enacted*, That all actions of treſpaſs *quare clauſum fregit*, all actions of treſpaſs, detinue, trover or replevin for goods or cattle, all actions of account, and upon the caſe, other than ſuch as concern the trade of merchandize between merchant and merchant, their factors and ſervants, all actions of debt grounded on any lending or contract without ſpecialty, all actions of debt, for arrearages of rent, and all actions of aſſault, menace, battery, wounding and impriſonment, or any of them, which ſhall be ſued or brought after the paſſing of this act, ſhall be commenced and ſued within the times hereafter limited and not afterwards, that is to ſay; the ſaid actions of account, the ſaid actions of debt, and actions upon the caſe, other than for ſlander, and the ſaid actions of treſpaſs, detinue and replevin for goods and cattle; and ſaid actions of treſpaſs *quare clauſum fregit*, within ſix years next after the cauſe of ſuch actions or ſuits reſpectively ſhall accrue and not after; and the ſaid actions of aſſault, menace, battery, wounding, impriſonment, or any of them, within three years next after the cauſe of ſuch actions or ſuits reſpectively, ſhall accrue, and not after—And the ſaid actions of the caſe for ſlander, within two years next after the cauſe of ſuch actions or ſuits ſhall accrue, and not afterwards.

SEC. 8. *And it is hereby further enacted*, That all actions upon promiſſory notes in writing, (atteſted by one or more witneſſes) executed after the paſſing of this act, ſhall be commenced and ſued within fourteen years next after the cauſe of action ſhall accrue thereon, and not after. And all actions on

promiſſory notes in writing, unatteſted, executed after the paſſing of this act, ſhall be commenced and ſued within ſix years next after the cauſe of action ſhall accrue thereon, and not after. And all actions of debt or *ſcire facias* on judgment, within eight years next after the rendition of ſuch judgment, and not after. And all actions of covenant, other than covenants contained in deeds of conveyances of lands, for ſecuring the title of ſaid lands, within eight years after the cauſe of ſuch action ſhall have accrued, and not after. And all actions of covenant, brought on any covenant or covenants, contained in any deed of conveyance of lands as aforeſaid, within ten years next after there ſhall have been a final deciſion againſt the title of the covenanter in ſuch deed.

SEC. 9. *Provided always, and it is hereby further enacted*, That if upon any of the ſaid actions or ſuits, judgment ſhall be rendered for the plaintiff, and the ſame be reverſed by writ of error, or a verdict paſs for the plaintiff, and for matter alledged in arreſt of judgment the judgment be given againſt the plaintiff, that he take nothing for his plaint, writ, or bill; as alſo when judgment in any action or ſuit, ſhall be rendered againſt the plaintiff, on any plea in abatement or on demurrer, and the merits of the cauſe ſhall not be tried, that, in all ſuch caſes, the plaintiff, his heirs, executors or adminiſtrators, as the caſe ſhall require, may commence a new action or ſuit, from time to time, within a year after ſuch judgment reverſed, or ſuch judgment given in arreſt, or rendered on plea of abatement or upon demurrer againſt the plaintiff, and not after. Proviſo.

SEC. 10. *And it is hereby further enacted*, That this act shall not extend to bar any infant, *feme covert*, person imprisoned or beyond seas, without any of the United States, or *non compos mentis* from bringing either of the actions beforementioned, within the term before set and limited for bringing such actions, calculating from the time such impediment shall be removed. And if any person against whom there is, or hereafter may be any cause or suit, for any or every the species of personal actions before enumerated, who at the time the same accrued, was without the state, and shall not have known property or estate therein, which could, by the common and ordinary process of law be attached, that then and in every such case, the person who was entitled to bring such action or suit, shall have liberty to commence the same, within the respective periods before limited, after such absent person's coming or return into this state.

Infants, feme coverts, &c. not debarred from bringing suit.

SEC. 11. *And it is hereby further enacted*, That no judgment or proceedings in course of justice, in any real or personal action, shall, from and after passing of this act, be reversed or avoided for any error or defect therein, unless the writ of error or suit for reversing such judgment or proceedings in course of justice, be commenced and duly served on the defendant or defendants in error, according to law, within one year next after the rendition of such judgment; or within one year next after such error or defect shall have intervened: *saving always* unto infants, *feme coverts*, persons *non compos mentis*, persons in prison, beyond seas, or without the United States, the right of bringing any writ of error, or suit for recovering any judgment, or proceedings in the course of justice, at any time,

Writ of error to be served within one year after the judgment on which it is predicated.

within one year, next after such impediment shall be removed, and not after.

Acts and clauses within the purview of this act repealed.

SEC. 12. *And it is hereby further enacted*, That all acts and clauses of acts, coming within the purview of this act be and the same are hereby repealed.

Proviso.

SEC. 13. *Provided always, and it is hereby further enacted, and expressly declared*, That this act shall not be construed to extend to, or affect any right or rights, action or actions, remedies, fines, forfeitures, privileges, or advantages accruing under any former act or acts, clause or clauses of acts, falling within the construction of this act, in any manner whatever; but all proceedings may be had, and advantages taken thereon, in the same manner as though this act had not been passed; and the former act or acts of limitation, clause or clauses of acts, which is, are or were in force at the time of passing this act, shall for all such purposes, be and remain in full force and effect, any thing herein contained to the contrary notwithstanding.

Passed November 6, 1797.

CHAPTER LXIX.

An ACT *repealing certain* acts *therein mentioned.*

Certain acts repealed.

SECTION 1. IT *is hereby enacted by the General Assembly of the state of Vermont*, That the several acts and parts of acts herein after mentioned, be, and the same are hereby repealed—*to wit*;

An act against adultery, poligamy and fornication—Passed February 27, 1787.

An act relating to auditors and actions of account—Paſſed March 8, 1787.

An act for the appointment and regulating of attornies and pleadings at the bar—Paſſed March 8, 1787.

An act for regulating and auditing the public accounts—Paſſed February 27, 1787.

An act againſt barratry and common barrators—Paſſed February 27, 1787,

An act concerning baſtards and baſtardy—Paſſed February 27, 1787.

An act for marking and branding cattle and ſheep—Paſſed March 3, 1787.

An act for regulating proceſſes and proceedings in civil cauſes—Paſſed March 10, 1787.

An act adopting the common and ſtatute law of England—Paſſed March 8, 1787.

An act enabling communities to ſue for, and defend their rights, eſtates and intereſts—Paſſed February 27, 1787.

An act eſtabliſhing the conſtitution of Vermont, and for determining who are entitled to the privileges of the conſtitution and laws—Paſſed March 8, 1787.

An act directing conſtables in their office and duty—Paſſed February 27, 1787.

An act for authenticating and regiſtering deeds and conveyances—Paſſed March 8, 1787.

An act againſt counterfeiting and paſſing bills of public credit, coins and notes, and to prevent injuſtice in paſſing the ſame—Paſſed March 8, 1787.

An act for the diviſion of counties in this ſtate—Paſſed February 27, 1787.

An act limiting the time of holding county offices therein mentioned—Paſſed March 8, 1787.

An act concerning ſudden and untimely deaths—Paſſed February 27, 1787,

An act for the puniſhment of defamation—Paſſed March 9, 1787.

An act relating to witneſſes, and taking affidavits out of court—Paſſed March 3, 1787.

An act relating to bills of divorce—Paſſed March 8, 1787.

An act for the puniſhment of drunkenneſs, gaming and profane ſwearing—Paſſed February 28, 1787.

An act for the ſettlement of teſtate and inteſtate eſtates—Paſſed March 8, 1787.

An act directing and regulating the levying and ſerving of executions—Paſſed February 28, 1787.

An act for the regulation of fees—Paſſed March 9, 1787.

An act for the puniſhment of divers capital and other felonies—Paſſed March 8, 1787.

An act reſpecting fences—Paſſed February 27, 1787.

An act for the regulating ferries and ferriages within this ſtate—Paſſed February 27, 1787.

An act regulating the diſpoſal of fines and penalties and the payment of coſts in caſes of delinquencies—Paſſed March 9, 1787,

An act regulating fiſheries—Paſſed March 8, 1787.

An act directing proceedings againſt forcible entry and detainer—Paſſed February 20, 1787.

An act regulating gaols and gaolers—Paſſed March 9, 1787.

An act directing the laying out of highways—Paſſed March 9, 1787.

An act for ſummoning juries and directing grand jurors in their duty—Paſſed February 27, 1787.

An act directing the mode of paſſing laws—paſſed Februay 27, 1787.

An act for the limitation of actions—Paſſed March 10, 1787.

An act for ſuppreſſing of lotteries—Paſſed February 27, 1787.

An act for regulating of marriages, and for preventing and puniſhing inceſt and inceſtuous marriages—Paſſed February 27, 1787.

An act regulating mills and millers—Paſſed March 3, 1787.

An act regulating the trial of perſons, who, on being arraigned for crimes againſt the ſtate ſhall ſtand mute—Paſſed February 20, 1787.

An act directing what money ſhall be a legal currency in this ſtate, and at what rate the ſame ſhall paſs—Paſſed March 9, 1787.

An act to prevent the ſale and tranſportation of negroes and mulattoes out of this ſtate—Paſſed October 30, 1786.

An act to prevent falling trees into creeks and rivers—Paſſed March 9, 1787.

An act preſcribing and eſtabliſhing forms of oaths in this ſtate—Paſſed February 27, 1787.

An act for the partition of lands—Paſſed March 8, 1787.

An act for the prevention and puniſhment of frauds and perjuries—Paſſed March 8, 1787.

An act providing for and ordering tranſient, idle, impotent and poor perſons—Paſſed March 9, 1787.

An act for eſtabliſhing poſt offices in this ſtate—Paſſed March 9, 1787.

An act maintaining ſtocks, ſign-poſts and pounds in this ſtate, and for regulating the impounding of creatures and for puniſhing reſcues and pound breaches—Paſſed March 8, 1787.

An act for dividing the ſtate into probate diſtricts—Paſſed February 27, 1787.

An act relative to the people called Quakers —paſſed February 27, 1787.

An act for the collecting and paying of rates—Paſſed March 8, 1787.

An act to place the ſubjects of the United States, upon the ſame footing in ſuits at law, in which the ſubjects of this commonwealth are put by their reſpective laws—Paſſed March 9, 1787.

An act for the prevention and puniſhment of riots, diſorders and contempt of authority —Paſſed March 8, 1787.

An act for the due obſervation of the ſabbath—paſſed March 9, 1787.

An act for appointing and ſupporting ſchools—paſſed March 8, 1787.

An act regulating the office and duty of ſheriffs—paſſed March 9, 1787.

An act to prevent the ſpreading of the ſmall pox—Paſſed February 27, 1787.

An act to prevent ſtone horſes running at large in this ſtate—Paſſed March 9, 1787.

An act concerning ſtrays and loſt goods—Paſſed March 8, 1787.

An act concerning ſureties and *ſcire facias*—Paſſed March 8, 1787.

An act for appointing county ſurveyors in the counties, and for directing and regulating them in the execution of their office—Paſſed March 5, 1787.

An act for reſtraining ſwine going at large Paſſed February 27, 1787.

An act empowering the authority and ſelectmen of the ſeveral towns in this ſtate, to abate a certain part of the ſeveral taxes—Paſſed March 8, 1787

An act to make certain articles of perſonal property a tender on execution in certain caſes therein mentioned—Paſſed March 8, 1787.

An act for the puniſhment of theft—Paſſed February 20, 1787.

An act againſt taking or deſtroying white pine or any other valuable timber—Paſſed October 27, 1787.

An act directing town clerks in their office and duty—Paſſed March 9, 1787.

An act for empowering the inhabitants of the reſpective towns in this ſtate to tax them-

ſelves on certain occaſions—Paſſed February 8, 1787.

An act for regulating town, and other public meetings and directing the choice of town officers; paſſed February 7, 1787.

An act againſt high treaſon and miſpriſion of treaſon; paſſed March 8, 1787.

An act for puniſhing of treſpaſſes in divers caſes and directing proceedings therein; paſſed March 8, 1787.

An act regulating weights and meaſures; paſſed March 8, 1787.

An act to encourage the deſtroying of wolves and panthers; paſſed February 27, 1787.

An act preſcribing the forms of writs in civil cauſes; paſſed March 6, 1787.

An act to reſtrain the taking of exceſſive uſury; paſſed March 8, 1787.

An act for ſupporting miniſters of the goſpel; paſſed October 18, 1787.

An act regulating the choice of ſurveyor general; paſſed October 19, 1787.

An act to annex the town of Kingſton to Addiſon county; paſſed October 19, 1787.

An act for dividing the county of Addiſon, forming a new county, and aſcertaining the times and places of holding courts in Addiſon and Chittenden counties; paſſed October 22, 1787.

An act appointing a paymaſter-general, and aſcertaining the buſineſs of his office; paſſed October 24, 1787.

An act for diſtributing the laws of the general aſſembly of this ſtate; paſſed October 26, 1787.

An act for the limitation of actions brought againſt ſheriffs, under ſheriffs and conſtables, for certain matters in the execution of their office; paſſed October 26, 1787.

An act in addition to an act, entitled, "an act for collecting and paying rates;" paſſed October 20, 1787.

An act in addition to an act, entitled, "an act for dividing the ſtate into probate diſtricts;" paſſed October 15, 1788.

An act for the preſervation of deer; paſſed October 21, 1788.

An act for allowing and regulating offſetts; paſſed October 21 1788.

An act in explanation of an act, entitled, "an act for enabling communities to ſue for, and defend their rights, eſtates and intereſts;" paſſed October 23, 1788.

An act in addition to an act, entitled, "an act for the regulation of fees;" paſſed October 23, 1788.

An act againſt breaking the peace; paſſed October 23, 1788.

An act conſtituting a court of chancery; paſſed October 23, 1788.

An act directing the mode of proceſs againſt high ſheriffs' bondſmen; paſſed October 23, 1788.

An act in addition to "an act for the regulation of fees;" paſſed October 23, 1789.

An act in addition to "an act directing the mode of proceſs againſt high-ſheriff's bondſmen;" paſſed October 26, 1789.

An act defining the powers of juſtices of the peace within this ſtate; paſſed October 28, 1789.

An act to empower ſheriffs and conſtables to commit perſons to gaol out of their county; paſſed October 25, 1789.

An act declaring the debts due to this ſtate on intereſt from the time they reſpectively become due; paſſed October 29, 1789.

An act directing the mode of filling vacancies which may happen in certain offices therein mentioned; paſſed October 13, 1790.

An act directing the mode of chuſing an auditor of accounts againſt this ſtate, and pointing out his office and duty; paſſed October 22, 1790.

An act for forming a new probate diſtrict, in the northeaſtern part of the county of Orange, and two other diſtricts in the county of Chittenden; paſſed October 27, 1790.

An act in addition to an act, entitled, "an act defining the powers of the ſupreme and county courts within this ſtate;" paſſed October 27, 1790.

An act directing the manner of chuſing ſenators to repreſent this ſtate, in the congreſs of the United States of America; paſſed January 19, 1791.

An act to ſuſpend the operation of an act, entitled, "an act to compel the fulfilment of contracts according to the intent of the parties;" paſſed January 25, 1791.

An act in addition to an act, entitled, "an act for the due obſervation of the Sabbath or Lord's day;" paſſed January 26, 1791.

An act in addition to and alteration of an act, entitled, "an act for ſummoning juries

and directing grand jurors in their duty; paſſed January 27, 1791.

An act in alteration of an act, entitled, "an act regulating the office and duty of ſheriff;" paſsed January 27, 1791.

An act directing collectors of land taxes in their office and duty; paſsed January 27, 1791.

An act empowering executors and adminiſtrators to proſecute and defend ſuits, where one of the parties die pending the ſuit; paſsed November 1, 1791.

An act regulating *meſne* proceſs; paſsed October 27, 1791.

An act againſt counterfeiting the hard money orders of this ſtate, and orders drawn by the clerk of the ſupreme court; paſsed October 29, 1791.

An act in addition to an act, entitled, "an act for the puniſhment of theft;" paſſed October 29, 1791.

An act regulating the duty of gaolers; paſſed November 1, 1791.

An act to prevent the undue influencing jurors; paſſed November 1, 1791.

An act defining the powers of the ſupreme and county courts within this ſtate; paſsed November 1, 1791, excepting the laſt enacting clauſe, repealing former acts, which is ſtill to be in force.

An act directing the manner of taking bail and recognizances in certain caſes therein mentioned; paſſed November 1, 1791.

An act directing leather ſealers in their office and duty; paſſed November 1, 1791.

An act directing the ſeveral officers therein named, to tranſmit to the treaſurer annually, the amount of all orders drawn on the treaſurer; paſſed November 1, 1791.

An act for the puniſhment of rapes; paſſed November 1, 1791.

An act to privilege members of council and houſe of aſſembly, &c. from arreſts; paſſed November 3, 1791.

An act in addition to and amendment of an act, paſſed March 8, 1787, entitled, "an act for the appointment and regulating attornies and proceedings at the bar;" paſſed November 3, 1791.

An act in addition to, and for repealing a certain part of an act entitled, "an act to encourage the deſtroying wolves and panthers;" paſſed November 3, 1791.

An act directing the time private petitions ſhall be preferred to the legiſlature; paſſed November 3, 1791.

An act allowing the ſheriff of the county of Windſor four deputies: paſſed November 3, 1791.

An act for dividing the counties of Orange and Chittenden into ſix ſeparate and diſtinct counties; paſſed November 5, 1792.

An act in addition to an act, entitled, "an act directing proceedings againſt forcible entry and detainer;" paſſed November 6, 1792.

An act in addition to an act, entitled, "an act regulating proceſſes and proceedings in civil cauſes;" paſſed November 6, 1792.

An act to prevent the ſpreading of thiſtles; paſſed November 7, 1792; except the laſt clauſe of ſaid act.

An act in addition to "an act regulating fees;" paſſed November 7, 1792.

An act for mending and clearing highways;" paſſed November 7, 1792, except the laſt enacting clauſe of ſaid act repealing a former act.

An act in addition to, and amendment of "an act defining the power of juſtices of the peace within this ſtate, and prohibiting writs of *certiorari*;" paſſed November 7, 1792.

An act relating to the manufacture of iron and nails; paſſed November 8, 1792.

An act explanatory of and in addition to "an act for collecting and paying rates; paſſed March 8, 1787;" paſſed November 6, 1792.

An act directing the mode of appropriating public monies;" paſſed November 8, 1792.

An act in addition to an act, entitled, "an act for regulating gaols and gaolers;" paſſed November 8, 1792.

An act to promote the increaſe of ſheep; paſſed November 8, 1792.

An act in addition to, and alteration of "an act for the prevention and puniſhment of frauds and perjuries;" paſſed November 8, 1792.

An act directing the times when the ſeveral county courts ſhall be holden within this ſtate; paſſed November 7, 1793.

An act for the purpoſe of repealing part of an act, entitled, "an act regulating proceſſes and proceedings in civil cauſes;" paſſed October 23, 1793.

An act empowering the ſupreme court in this ſtate to grant new trials; paſſed October 23, 1793.

An act in addition to an act, entitled, "an act againſt counterfeiting and paſſing bills of public credit, coins and notes, and to prevent injuſtice in paſſing the ſame, paſſed the eighth day of March, A. D. 1787;" paſſed October 25, 1793.

An act regulating the election of governor, lieutenant-governor, treaſurer, council and repreſentatives; paſſed October 26, 1793—except the ſeventh ſection in ſaid act.

An act regulating the fees of the petit jury in the county courts in this ſtate; paſſed October 29, 1793.

An act eſtabliſhing the probate diſtrict of Orleans; paſſed October 30, 1793.

An act in addition to an act, entitled, "an act for regulating, town and other public meetings and directing the choice of town officers;" paſſed October 31, 1793.

An act for the diſtribution of the acts and laws of this ſtate, journals of the houſe of repreſentatives and other public papers; paſſed October 31, 1793.

An act in addition to an act, entitled, "an act to encourage the deſtroying of wolves and panthers," paſſed November 1, 1793.

An act in addition to an act, entitled, "an act regulating gaols and gaolers;" paſſed November 2, 1793.

An act in addition to an act, entitled, "an act to empower ſheriffs and conſtables to commit perſons to gaol out of their own county;" paſsed November 4, 1793.

An act in addition to an act, entitled, "an act for the ſettlement of teſtate and inteſtate eſtates;" paſsed November 4, 1793.

An act for the purpoſe of granting relief in certain caſes to the people called quakers; paſsed November 4, 1793.

An act regulating the proceedings on petitions for taxes on lands, for the purpoſe of making and repairing roads and building bridges in the ſeveral towns in this ſtate; paſsed November 4, 1793.

An act limiting the powers of the ſupreme and county courts in granting new trials; paſsed October 25, 1794.

An act in addition to an act, entitled, "an act directing and regulating the levying and ſerving executions;" paſsed October 28, 1794.

An act in addition to an act, entitled, "an act for the ſettlement of teſtate and inteſtate eſtates;" paſsed October 29, 1794.

An act for the more ſpeedy ſettlement of controverſies;" paſsed October 30, 1794.

An act in addition to an act, entitled, "an act for mending and clearing highways;" paſsed October 30, 1794.

An act in addition to an act entitled, "an act relative to the people called quakers;" paſsed October 30, 1794.

An act enabling the ſeveral towns in this ſtate to make laws reſtraining ſheep from running at large; paſsed October 30, 1794.

An act in addition to an act, entitled, "an act defining the powers of the ſupreme and county courts:" paſsed October 30, 1794.

An act in addition to an act, entitled, "an act in addition to an act," regulating gaols and gaolers, "paſsed November eighth, 1792;" paſsed October 30, 1794.

An act in addition to, and alteration of an act, entitled, "an act defining the powers of juſtices of the peace within this ſtate:" paſſed October 30, 1794.

An act making proviſion for the payment of coſts in certain caſes therein mentioned;—paſſed October 30, 1794.

An act regulating the taxation of coſt in juſtices' courts; paſſed October 27, 1795.

An act in addition to and alteration of an act, entitled, "an act in addition to and alteration of an act, entitled an act for ſummoning juries, and directing grand jurors in their duty;" paſſed October 27, 1795.

An act in addition to an act, entitled, "an act for appointing and ſupporting ſchools;" paſſed October 20, 1795.

An act empowering the ſheriff of the county of Chittenden to appoint two deputies, in addition to what are now allowed; paſſed October 26, 1795.

An act in addition to an act, entitled, "an act for maintaining ſtocks, ſign-poſts and pounds in this ſtate, and regulating the impounding of creatures, and for puniſhing reſcues and pound-breaches;" paſſed October 21, 1795.

An act in addition to an act, entitled, "an act for dividing the county of Orange and Chittenden into ſix ſeparate and diſtinct counties; paſſed November 5, 1792;" paſſed October 23, 1795.

An act for introducing the dollar and its parts as the money of account in this ſtate; paſſed October 27, 1795.

An act for preventing the deſtruction of muſk rats; paſſed October 27, 1795.

An act to reſtrain and regulate the fiſhing on the great-pond in Greenſborough; paſſed October 24, 1795.

An act exempting certain perſons from paying ſtate-taxes; paſſed October 27, 1795.

An act adopting the conſtitution of Vermont as the ſupreme law of the ſtate; and deſcribing thoſe perſons entitled to the privileges of law and juſtice: paſſed November 3, 1796.

An act adopting the common law of England: paſſed November 5, 1796.

An act to recover damages in caſes when ſheep are killed or wounded by dogs: paſſed November 2, 1796.

An act dividing the counties of Orange, Caledonia, and Eſſex into probate diſtricts: paſſed November 1, 1796.

An act forming the North Hero, Iſle of Mott, and that part of Alburgh lying weſt of Miſſiſque-Bay, and the adjacent iſlands, into a probate diſtrict, by the name of the diſtrict of Alburgh: paſſed November 4, 1796.

An act organizing the counties of Franklin and Caledonia, and fixing the times and places for holding the ſupreme and county courts in the ſame, and for altering the place of holding the ſupreme and county courts in the county of Orange: paſſed November 8, 1796.

SEC. 2. *Provided always, and it is hereby further enacted*, That this act ſhall not take effect, until the firſt day of September next, at which time it ſhall be in force.

SEC. 3. *Provided nevertheleſs, and it is hereby further enacted, and expreſsly declared*, That the aforeſaid repealed acts or laws, ſhall be in

full force, as to all matters and things done or tranſacted during their exiſtence, to which they relate, to all intents and purpoſes, as though this act had not been made: and all ſuch matters may be proſecuted, commenced, done and completed, at any time hereafter, purſuant to the ſame laws: and this act ſhall not be conſtrued to affect any right or rights, remedy or remedies, fines, forfeitures, or penalties incurred, or accruing, under any former act or acts, clauſe or clauſes of acts; any thing herein contained to the contrary notwithſtanding.

Paſſed November 10, 1797.

CHAPTER LXX.

An ACT *in addition to an act, entitled, "an act conſtituting the ſupreme court of judicature and county courts, defining their power, and regulating judicial proceedings," paſſed March ſecond, one thouſand ſeven hundred and ninety ſeven.*

Supreme and county courts empowered to grant new trials.

SECTION 1. IT *is hereby enacted by the General Aſſembly of the ſtate of Vermont*, That the ſupreme court of judicature, and the ſeveral county courts within this ſtate, ſhall have power to grant new trials, in all caſes within their reſpective juriſdictions, according to the uſages of law, either on motion at the ſame ſeſſion in which judgment was rendered in ſaid cauſe, or by petition to any ſubſequent ſeſſion of the ſame court, in which the original judgment was rendered.

SEC. 2. *Provided always, and it is hereby further enacted*, That when any perſon ſhall prefer his petition for a new trial, to any

Perſons petitioning for new trials, to notify the adverſe party.

court, at a ſeſſion ſubſequent to that in which the original judgment was rendered, he ſhall give the adverſe party notice of ſuch petition, by a citation for that purpoſe, to be ſigned by one of the judges or clerk of the court, to which it is made returnable, to be ſerved in the ſame manner as original writs are by law ſerved, at leaſt twelve days before the ſitting of the court, to which ſuch petition is preferred. And the ſaid courts reſpectively, ſhall have power to tax coſts on granting or refuſing ſuch motion or petition, as to them ſhall appear juſt and reaſonable, after a full hearing on ſuch motion or petition.

Court's power to tax coſt.

No new trial to be granted where the court and jury differ as to facts.

Provided nevertheleſs, That no new trial ſhall be granted by either of ſaid courts in any civil cauſe, in which the reaſon aſſigned for granting a new trial, is founded on a difference of opinion, as to matter of fact, between the court and jury, which tried the cauſe.

New trials to be granted in matters of law in one year if new evidence diſcovered in two years.

Provided alſo, That no new trial ſhall be granted in any cauſe, unleſs the petition and citation be preferred and ſerved on the adverſe party, if the reaſons aſſigned be a matter of law, within one year next after the rendition of the original judgment, or if the reaſons aſſigned be the diſcovery of new evidence, within two years next after the rendition of the original judgment, any thing herein contained to the contrary notwithſtanding.

Paſſed November 8, 1797.

CHAPTER LXXI.

An ACT *ſuſpending the operation of certain acts therein mentioned, and for other purpoſes.*

SECTION 1. IT *is hereby enacted by the General Assembly of the State of Vermont*, That the operation of the several acts passed by the legislature, at their adjourned session at Rutland, in February last, which were reported by the committee of revision, and the operation of all the acts reported by said committee the present session; and also of such other acts, of a public nature, which have or shall be passed this session, be, and hereby is suspended till the first day of September next, except such acts as shall be published in a pamphlet, by direction of the general assembly, the operation and effect of which acts are to take place from the time of their passing respectively.

Operation of revised acts suspended until September 1, 1798.

Acts to take immediate effect.

SEC. 2. *And it is hereby further enacted*, That all writs, processes, proceedings, bonds, or recognizances, which shall be made, issued or taken and made returnable, either to the supreme court of judicature, or to either of the county courts in the several counties within this state, pursuant to the present existing laws, be, and they are hereby made returnable to such courts respectively, at such times and places, as is, or are directed in the said several acts, the operation of which is hereby suspended.

Writs, bonds, &c. made returnable.

Passed November 10, 1797.

CHAPTER LXXII.

An ACT, *regulating the printing, binding, distribution, and sale of the* revised laws *of this state.*

SECTION 1. IT *is hereby enacted by the General Assembly of the state of*

State's printer to print one thouſand copies of the reviſed laws.

Vermont, That there ſhall be printed by the printer of this ſtate, one thouſand copies of the reviſed laws of this ſtate, on demi paper, of a good quality, with a type ſimilar to that on which the firſt and ſecond volumes of the laws of the United States are printed, to be of the ſame ſize and ſhape, and to contain as many words on each page, and the volumes of ſaid laws ſhall be as well bound, with ſuitable leather, for that purpoſe, and on the outſide, on a leather of a different colour, each volume ſhall be lettered with theſe words, namely, "LAWS OF VERMONT."

Type and paper.

Binding.

Letter-ing.

SEC. 2. *And it is hereby further enacted*, That the ſaid copies, ſo to be printed, ſhall be completed and delivered, on or before the firſt day of July next. One copy of which ſhall be delivered to each of the following officers, viz. the governor, lieutenant governor, treaſ-

To be printed by the firſt of July, 1798.

Diſtribution of reviſed laws.

urer, ſecretary of ſtate, ſecretary of council and clerk of the general aſſembly; and there ſhall alſo be lodged with the clerk of the general aſſembly, four volumes, for the uſe of the legiſlature: and there ſhall be lodged with the governor of this ſtate, twenty copies of ſaid reviſed laws, to be printed on a paper of an excellent quality, and elegantly bound and lettered, at the extra expence of the printer: one of which, it ſhall be his duty to tranſmit to the preſident of the United States, one to the preſident of the Senate, one to the ſpeaker of the houſe of repreſentatives, and one to each of the executives of the different ſtates in the United States. And at the time of tranſmitting the ſame to the reſpective executives, aforeſaid, it ſhall be the duty of the governor, to requeſt from each of them, a copy of their public acts or laws, as reviſed or collated, as ſoon as they ſhall become ſo, from which this ſtate has not already received ſuch copies, and

one to the governor of Lower Canada, with a requeſt as aforeſaid. And there ſhall alſo be delivered to each of the committee of reviſion, one copy, to be printed, bound and lettered as laſt aforeſaid.

SEC. 3. *And it is hereby further enacted*, That each organized town, pariſh, diſtrict, or other place, with town privileges, ſhall be furniſhed with one copy, at the expence of the ſtate, to be lodged with the ſeveral clerks of ſuch town, pariſh, diſtrict or other place, which ſaid copies ſhall be by ſuch clerks, delivered over to their reſpective ſucceſſors in office.

SEC. 4. *And it is hereby further enacted*, That after reſerving the number of copies for the purpoſes mentioned in the ſecond ſection of this act, the reſidue of the aforeſaid one thouſand copies, ſhall be diſtributed, and diſpoſed of, in the following manner—that is, there ſhall be delivered by the ſtate printer, to the ſheriff of Bennington county, eighty-eight copies; to the ſheriff of Windham county, ninety ſeven copies; to the ſheriff of Rutland county, one hundred and thirty-ſix copies; to the ſheriff of Windſor county, one hundred and eleven copies; to the ſheriff of Addiſon county, one hundred and two copies; to the ſheriff of Orange county, one hundred and three copies; to the ſheriff of Chittenden county, one hundred and nine copies; to the ſheriff of Caledonia county, one hundred and fourteen copies; to the ſheriff of Franklin county, one hundred and ſeven copies. The ſaid printer taking ample and ſufficient receipts, on delivery of the ſame, from the ſaid ſheriffs, to the treaſurer of this ſtate, through his hands, faithfully to account for the diſtribution and diſpoſal of ſaid copies, which receipts, the ſaid printer ſhall deliver

Printer to take receipts from ſheriffs.

Receipts to be delivered to treaſurer.

over, on or before the firſt day of September next, to the treaſurer of this ſtate.

Sheriffs within thirty days to lodge copies withtown clerks.

SEC. 5. *And it is hereby further enacted*, That it ſhall be the duty of the ſaid ſheriffs, reſpectively, within thirty days after the receipt of ſuch copies, to lodge one copy thereof with the clerks of each organized town, pariſh, diſtrict or other place, in each of their reſpective counties, taking receipts from ſuch clerks reſpectively; which receipts being produced to the treaſurer, ſhall be accounting for ſuch number of copies. And the ſaid ſheriffs on application, ſhall furniſh one copy to every civil officer in commiſſion in this ſtate, within their reſpective counties, for the ſame price at which ſaid copies ſhall coſt this ſtate.

Sheriffs on application to furniſh one copy to each civil officer at firſt coſt.

Auditor to aſcertain the price.

SEC. 6. *And it is hereby further enacted*, That the auditor of accounts againſt this ſtate, ſhall aſcertain the value of each copy ſo to be printed, after the following manner, that is to ſay, that if the ſaid copy ſhall contain five hundred and twelve pages, octavo, of the ſame ſize and number of words, as mentioned in the firſt ſection of this act, then the price of ſuch copies ſhall be eighty cents, but if the ſaid copy ſo printed ſhall contain a greater or leſs number of pages, then the ſaid auditor ſhall aſcertain the price of ſaid copy, at the ſame rate, adding thereto the ſum of thirty-four cents for the expence of binding and lettering each copy, as before provided in this act. And the ſaid auditor ſhall furniſh the ſaid printer with certificates of the price of ſaid copies, under his oath of office, which ſhall be by him ſo aſcertained, one of which it ſhall be the duty of the ſaid printer to deliver over to the ſheriff aforeſaid, on delivery of the copies of ſaid revived laws.

Auditor to furniſh printer with certificate.

SEC. 7. *And it is hereby further enacted,* That the ſaid ſheriffs reſpectively, after furniſhing the clerks as aforeſaid, and after reſerving a ſufficient number of copies, to furniſh the civil officers of their reſpective counties, be, and they are hereby directed to ſell to any perſon or perſons, on application, any number of the copies, which ſhall remain in their hands, reſpectively, undiſpoſed of, at the ſame price aſcertained by the auditor as aforeſaid, and ſuch ſheriffs reſpectively, ſhall be allowed five per cent. commiſſions for ſuch ſales.

Sheriffs to ſell to any perſon after furniſhing town clerks and civil officers.

SEC. 8. *And it is hereby further enacted, and expreſsly declared,* to be the duty of ſuch ſheriffs reſpectively, to account with the treaſurer of this ſtate, on or before the twentieth day of October next, upon the receipts, ſo to be given as aforeſaid, for the diſtribution, diſpoſal and ſale of ſuch copies.

Sheriffs to account to the treaſurer on or before the 20th October, 1798.

SEC. 9. *And it is hereby further enacted,* That CEPHAS SMITH, jun. of Rutland, be, and he hereby is appointed to inſpect the preſs during the printing of ſaid reviſed laws, who ſhall be under oath for the faithful diſcharge of his ſaid duty, and his certificate accompanying ſaid laws, that the ſame are correct, or noting the errata, if there be any, the ſame ſhall be read, uſed, and conſidered as laws throughout this ſtate. And the ſaid Cephas ſhall be entitled to receive ſuch ſum from the treaſurer of this ſtate, as on examination of [illegible] and ſervices, a future legiſlature ſhall [illegible].

Cephas Smith jr. appointed to inſpect the preſs.

His certificate to accompany reviſed laws.

Paſſed November 10, 1797.